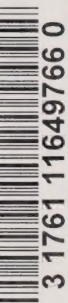


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Ontario. Royal Commission inquiry into labour  
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**ROYAL COMMISSION**  
**INQUIRY INTO LABOUR DISPUTES**

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**HEARINGS HELD AT**  
**PETERBOROUGH**

**VOL. NO.**

**DATE**

17

April 6, 1967

*Official Reporters*

**NETHERCUT & YOUNG LIMITED**  
**48 YORK STREET**  
**TORONTO 1, ONTARIO**  
**TELEPHONE 363-3111**







IN THE MATTER OF The Public  
Inquiries Act, R.S.O. 1960  
Chapter 323

- and -

IN THE MANNER OF an Inquiry  
into Labour Disputes

BEFORE: The Honourable Ivan C.  
Rand, Commissioner at  
The County Court House,  
Peterborough, Ontario  
on Thursday, April 6th, 1967

E. Marshall Pollock

Counsel to the Commissioner

APPEARANCES:

Mr. Stanley Rouse

Peterborough Labour Council

Mr. Sarginson

United Steel Workers of America

Mr. William Woodbeck

United Electrical Radio & Machine  
Workers

Mr. A.F. Crossman

In his personal capacity

Mr. Eugene Kurz

In his personal capacity





Peterborough, Ontario  
 Tuesday, April 6th,

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1 that was drawn up or appointed in order to get assistance  
2 for the strikers at the Tilco plant. I think the object,  
3 and maybe if I could read the paragraph dealing with the  
4 objects of the brief, it may save too many digressions  
5 from what we want to say:

6 "It is our object in this  
7 submission to bring to the Commissions  
8 attention the reasons and circumstances  
9 behind the embarkation, by the Injunc-  
10 tions Committee of the Peterborough  
11 Labour Council, on a course of action  
12 and involvement which led to the commital  
13 of twenty-five working men to the County  
14 Jail. The relevance of our brief to  
15 this Commission is based on the fact  
16 that whenever and wherever a Labour  
17 Dispute evolves, sooner or later the  
18 local Labour Council will inevitably  
19 become involved in the dispute to a greater  
20 or lesser degree than that which took  
21 place in Peterborough during the 'Tilco  
22 dispute'. If by this submission we can  
23 inform the Commission as to the role of  
24 the Labour Council in strike situations,  
25 and thereby contribute another piece to  
26 the jig-saw puzzle of the modern labour  
27 dispute, we feel that we will have served  
28 the Commission in its purpose ..."

29 I think it might be of greater assistance to the Com-  
30 mission and it might help in the expedition of this







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1 hearing if at this time if you ask the questions that  
2 you think are pertinent to this particular submission.

3 THE COMMISSIONER: Mr. Pollock may have  
4 some questions.

5 MR. POLLOCK: I would refer to page 7 in  
6 your submission, in which you discuss the question of the  
7 injunction that was obtained some three days after the  
8 strike commenced on Friday, the 17th of December, and  
9 it ran Saturday, Sunday and Monday, when it was extended.  
10 It was your reference, "...to our knowledge, no incidents."  
11 Were there, in fact, subsequent or have you found out  
12 that there were, in fact, some incidents of disturbance  
13 let us put it that way, at the gates of the plant that  
14 would support an Application for Injunction?

15 MR. ROUSE: Prior to the Application, I  
16 that we are aware of, no. None have come to our atten-  
17 tion.

18 MR. POLLOCK: Well, I have a copy--and I  
19 don't know whether you have seen it or not--of the  
20 Application filed by Mr. Harold Pammet in support of the  
21 ex parte injunction before Mr. Justice Haines. It is  
22 some eight pages long and makes reference to six signed  
23 statements and some of the matters raised in this affi-  
24 davit, and to refresh your memories or to indicate to you  
25 that you have never seen before, some of the things that  
26 Mr. Pammet has sworn to and presented to the court.

27 In the first part of the affidavit, he  
28 sets out the facts of the labour dispute, that is, that  
29 there was one going on and that there was a strike.  
30 he sets out in paragraph 14 that there were twenty-two







1 persons parading up and down outside the company's office  
2 at approximately six o'clock in the morning, and then  
3 he says in the next paragraph that the driveway was  
4 blocked or he "tried to drive out of the driveway on  
5 Park Street, but the driveway was blocked by picketers  
6 and they refused to let me through. I returned to the  
7 plant and called for the police who arrived at the plant  
8 at approximately 6:45". Then he tried to drive out again  
9 and they blocked him again and he had to drive slowly  
10 through the picketers, "I drove the car ahead slowly and  
11 one or two of the picketers jumped in front of the car  
12 and tried to stop it moving. Eventually I was able to  
13 pass. I was informed through one of the company's  
14 employees about K. Robinson, that he attempted to drive  
15 through the company's plant over on Park Hill Road on  
16 the same day and picketers gathered in front of his  
17 vehicle and refused to let him pass. He then tried to  
18 drive into the company's plant over the driveway on  
19 Park Street and a group of picketers refused to let him  
20 pass there. A policeman had to clear them out of the way  
21 before he could get through". Then there is a statement  
22 of Mr. Robinson that is annexed, on which he bases this  
23 information.

24 "At 7:20 a.m. the same day,  
25 left the company's premises to speak  
26 to a policeman who was sitting in a  
27 car opposite the street and picketers  
28 who were picketing in Park Street  
29 blocked my path and I had to force  
30 my way through and one of the





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1 defendants kicked at me with his foot  
2 attempting to trip me. At approximately  
3 8:00 a.m. on the same day, I counted  
4 the number of pickets who were standing  
5 outside the company's premises and I  
6 noted that twelve picketers were standing  
7 by the company's driveway on Park Street  
8 and fifteen picketers were standing by  
9 the company's plant sidewalk entrance  
10 on Park Street. I also noted that some  
11 picketers were standing by the company's  
12 driveway on Park Hill Road and these  
13 picketers were not moving but were stand-  
14 ing still and blocking access to and  
15 egress from the company's premises.  
16 At approximately 8:10 a.m. on the same  
17 day, one of the picketers entered  
18 the company's property and looked through  
19 the windows into the plant. I warned  
20 the picketer that he was trespassing  
21 on company property and asked that he  
22 cease and desist from so doing. I was  
23 informed by one of the company's female  
24 ladies and thoroughly believe that  
25 approximately ..."

26 and her name is mentioned here, Mrs. Rajski,

27 "... 9:10 on the same day a number of  
28 picketers rushed up to the company's  
29 premises and looked through the windows."

30 And it goes on to say:







1 "I was informed by one of the  
2 company's employees, a Mr. Armstrong,  
3 and verily believe that approximately  
4 9:00 a.m. on the same day he attempted  
5 to drive into the company's premises  
6 and his access was blocked by a number  
7 of picketers who refused to let him  
8 pass. He slowly moved his car through  
9 and one picketer, by the name of  
10 Elizabeth Gold, through herself across  
11 the hood of his automobile and another  
12 picketer who cannot be identified thrust  
13 his arm through the car window and  
14 attempted to strike Mr. Armstrong."

15 And then there is reference to the statement of Mr.  
16 Armstrong that is annexed as an exhibit. Then, the  
17 next paragraph is about Mr. Kenneth Simpson, another  
18 employee of the plant:

19 "At 5:02 p.m. he attempted to drive  
20 out of the company's premises to go  
21 home from work and his car was  
22 stopped by a number of picketers who  
23 refused to let him pass. He asked  
24 repeatedly if he could get past and  
25 received refusal. He slowly moved his  
26 car forward and one of the picketers  
27 on the right side of the car beat  
28 the top of the car with a sign which  
29 he was carrying and caused damage to  
30 the top of the car. One picketer on







1 the left side of the car kicked at the  
2 car scraping off paint off the side of  
3 the car door."

4 And then there is the statement of Mr. Simpson annexed.  
5 Then, the next paragraph discusses another employee, Mr.  
6 Fleming, who at 12:00 noon attempted to drive out of the  
7 company's premises and his car was blocked.

8 "... He asked to pass by and was  
9 refused and picketers standing in  
10 front of the car made him ask permis-  
11 sion to pass three or four times and  
12 specifically requested that he say  
13 'please'. After forcing him to wait  
14 a certain period of time, they allowed  
15 him to pass."

16 There are a few other paragraphs in this affidavit that  
17 relate similar instances at the picket line. There is  
18 evidence about calling the police on December the 14th  
19 six times and on the 15th, eight times to try and get  
20 access and egress from the company premises through the  
21 line of pickets.

22 Apparently, he also indicates in another  
23 part of the affidavit that on several occasions he tried  
24 to drive through the picket lines and picketers have  
25 pounded on his car with their fists and signs and  
26 shouted obscene words. He swears that the Application  
27 for Injunction is made in good faith and not for any  
28 improper purpose and that the plaintiff will suffer  
29 irreparable damage if the injunction is not granted and  
30 that he is willing to abide by an order of the court with





1 respect to the occasioned by reason of the fact  
2 MR. ROUSE: There is one question I would like to ask  
3 regard to this. These are all what I would call, mis-  
4 typing of the evidence as referred to here, such as it is  
5 in front of a court trying to get out the one question  
6 that comes to my mind is: has the affidavit ever been  
7 subjected to cross-examination in court? This is the question  
8 my mind, probably beside the weight with which  
9 Application should be accepted.

10 MR. POLLOCK: Well, the only comment I can  
11 make on that is that the only opportunity--this affi-  
12 davit was subsequently used and was supported by a  
13 application of Mr. [Name] and another one of Mr. [Name]  
14 for the subsequent application after the weekend to  
15 continue the injunction, and the only opportunity would  
16 have come at that time to cross-examine on all of these  
17 affidavits, but of course, as you are aware, the injunc-  
18 tion order went on consent, at least, the parties did not  
19 seek to proceed any further. So that there was no  
20 attempt made by the people involved, either the union  
21 counsel on their behalf, to cross-examine or, as a matter  
22 of fact, to file any other affidavits to counteract any  
23 of these.

24 MR. ROUSE: Well, even within the affi-  
25 davit, a lot of this is what I would consider--and this  
26 may not be the legal definition--as hearsay evidence.  
27 The evidence of Mr. [Name] told me this happened. [Name]  
28 would also be a leading on the weight with which this  
29 evidence was received.

30 THE COMMISSIONER: Well, why wasn't [Name]







1 attempt made to control any of these things?

2 MR. ROUSE: Well, this is a question which  
3 could probably be better answered by the textile workers  
4 themselves when they make a submission to you, which, I  
5 understand, they are going to do very shortly. However,  
6 in labour circles courts are not considered to be biased  
7 in favour of labour. In fact, it has been said on many  
8 occasions that courts are biased against labour and I  
9 am saying this as general or common knowledge within the  
10 labour movement. It is not necessarily my own personal  
11 opinion or common experience.

12 THE COMMISSIONER: This seems to be a  
13 definite view?

14 MR. ROUSE: A very strong view, yes.

15 THE COMMISSIONER: Well, why wouldn't  
16 labour take an opportunity to cross-examine these state-  
17 ments and oppose the affidavit?

18 MR. ROUSE: Possibly because of the cost.  
19 This was a very young--this group of employees had only  
20 been organized six months prior to the application and  
21 their only natural resources would be dues paid over  
22 that six-months' period. They were a small group and  
23 were very financially insecure.

24 MR. POLLOCK: But surely they are affili-  
25 ated with an international union?

26 MR. ROUSE: Yes, they are, but it has not  
27 been the experience, to my knowledge, of unions that it  
28 is worthwhile to process or fight in court this type of  
29 injunction or order.

30 THE COMMISSIONER: But I think you should







1 present some real evidence of that fact.

2 MR. ROUSE: All right. There was a strike  
3 just last year in Brantford, a machinists' lodge at  
4 Coreen Waterous. In this particular strike, four injunc-  
5 tions were issued. The union fought in court, if this  
6 is the correct term to use, three of the injunctions.  
7 They were completely disillusioned by the reception that  
8 they had in the court and when the fourth one was issued  
9 against them, they decided it just wasn't worthwhile.

10 THE COMMISSIONER: Were you there?

11 MR. ROUSE: I was at a public meeting in  
12 Brantford when these facts were given by the president  
13 of the local, Mr. Kusak, and the leader of the Liberal  
14 Party in Ontario, Mr. Robert Nixon, was at the same  
15 meeting and he remarked to the effect that it was a sorry  
16 state when any segment of the community should get so  
17 completely disillusioned with the courts. This was his  
18 statement, based on the statements of this particular  
19 trade unionist.

20 MR. POLLOCK: Well, based on the affidavit,  
21 the way it reads, that was the only evidence before His  
22 Lordship and it is some evidence, surely, of some activity  
23 that perhaps could best be characterized as unsanctioned.  
24 I don't think the trade union movement has ever said  
25 that they have or ought to have the right or liberty to  
26 prevent access to a plant by physical obstruction. I  
27 don't think anybody is taking that position.

28 MR. ROUSE: No.

29 MR. POLLOCK: I beg your pardon?

30 MR. ROUSE: It would be peacefully





1 deterring.

2 MR. POLLOCK: Well, whatever term you  
3 use, I think we are on common ground that that type of  
4 activity isn't one that the trade union movement today  
5 is trying to justify. But you see you placed the judge  
6 in a very difficult situation, faced with this appli a-  
7 tion and not having any other material put before him and  
8 any other affidavits or not cross-examined on because,  
9 you suggest, of the cost and (b) because you don't think  
10 you are going to get a fair shake, I didn't get your  
11 correct words but I perhaps am paraphrasing this, in the  
12 court. This is the only evidence he has and as far as  
13 he is concerned, it is uncontradicted. Now, I am not  
14 too concerned in this aspect with the ex parte application  
15 because if it is ex parte, you didn't date any notice to  
16 cross-examine. But even at the next stage, Mr. Justice  
17 King, I think, reversed the order. There wasn't any  
18 affidavits filed and there wasn't any attempt to say  
19 that these didn't happen and these statements aren't  
20 true. So, the only conclusion you can come to from  
21 reading subsequent affidavits filed for the continuation  
22 of the injunction were that the activities continued and  
23 well, they got a little bit worse.

24 MR. POLSE: If I may say, sir, our posi-  
25 tion is this, that the ex parte injunction was granted  
26 and the damage was done and the strike was, to all intents  
27 and purposes, broken on the day that that ex parte injur-  
28 tion was issued. To fight it afterwards or try and  
29 close the barn door after the horse has got out was to  
30 no advantage to the textile workers' union.







1 MR. POLLOCK: The ex parte injunction  
2 was granted late in the afternoon of Friday and I assume  
3 the plant operates all day on Saturday.

4 MR. ROUSE: Not normally, I don't believe.

5 MR. POLLOCK: All right, it doesn't operate  
6 Saturdays and Sundays so the plant is closed Saturday  
7 and Sunday anyway, so that it really operated on Monday  
8 morning.

9 MR. ROUSE: Yes. However, the picketing  
10 had been on a round-the-clock basis at that particular  
11 time, and clearing the path to the plant of picketers,  
12 the employer was able on Saturday, at least, to hire  
13 people, workers from the rolls of the unemployed, to take  
14 the place of the strikers and they were able to get in  
15 without knowing if they were not aware of the fact that  
16 it was only a three-day old strike at this time and they  
17 probably would not be aware of the fact that there was  
18 a strike on. He was able to hire people who probably  
19 did not know there was a strike on and this was due to  
20 the absence of picketers and due to the short time that  
21 had elapsed since the strike had been called. When this  
22 started, it was just another minor labour dispute, as  
23 far as the general public was concerned and it had not  
24 received the attention of the public.

25 MR. POLLOCK: Well, going by the only  
26 evidence that we have here of the activities on Saturday,  
27 there is an affidavit, again by Mr. Pammet, filed in  
28 support of the extension of the application in which he  
29 says:

30 "On Saturday, December 18th, 1965





1 at 7:30 a.m., there were..."  
2 he was called by his plant foreman to see that picketers  
3 were beginning to gather outside the company's plant,

4 "... I went to the plant in order  
5 to drive the employees home through the  
6 picket lines ..."

7 --I don't understand that--and

8 "... I arrived at the plant at 7:45  
9 a.m. and noticed that at some time  
10 between midnight and my arrival  
11 somebody had thrown a bottle threw  
12 the window and about 9:00 o'clock  
13 in the morning of the same day, there  
14 were four or five picketers at the  
15 company's plant and I told them about  
16 the injunction and they did not leave  
17 but remained on the sidewalk in front."

18 There was somebody there, I imagine, communicating the  
19 information that there was a strike going on.

20 MR. ROUSE: This bottle going threw the  
21 window, he doesn't say whether the bottle was from inside  
22 the plant or outside.

23 MR. POLLOCK: It was probably inside the  
24 plant but it doesn't say that, no. But that was in the  
25 wrong paragraph. I wanted to get at the pickets here.  
26 Were there many people or "strike breakers", as they are  
27 called, employed during the first few days of the strike  
28 before the injunction was granted?

29 MR. ROUSE: There were people that had  
30 formerly been meeting in the plant that were not within







1 the bargaining unit. They continued to go in and some  
2 of them but not all of them.

3 MR. POLLOCK: How many were in the bar-  
4 gaining unit altogether?

5 MR. ROUSE: I believe there were around  
6 thirty-five, thirty-two to thirty-five.

7 MR. POLLOCK: And they all came out on  
8 strike?

9 MR. ROUSE: This is my information, yes.

10 MR. POLLOCK: Did any of them go back to  
11 work?

12 MR. ROUSE: No, but some of the strike  
13 breakers did come at us and joined the picketers. I  
14 know three instances where this happened.

15 MR. POLLOCK: Well, how did he continue to  
16 operate his plant?

17 MR. ROUSE: With the assistance of addi-  
18 tional employees.

19 MR. POLLOCK: Was he not bringing in  
20 employees on the days before the injunction was granted?

21 MR. ROUSE: He was bringing in employees  
22 who were employees at the time of the strike, yes.

23 MR. POLLOCK: That would be supervisory  
24 personnel?

25 MR. ROUSE: Yes, and toolmakers and so  
26 on.

27 MR. POLLOCK: If you could explain to us  
28 what your position is as to how the injunction ended that  
29 strike or permitted the strike breakers to cross, because  
30 eventually, on Tuesday, I suppose, you got back twelve





1 picketers so that everybody was going in on Tuesday knew  
2 there was a strike going on.

3 MR. ROUSE: Well, I think that our position  
4 on this is covered in this paragraph on page 7 half-way  
5 down the page:

6 "With the entrances to the plant  
7 cleared of picketers and with no visual  
8 indications of a strike being in progress,  
9 the Company was able to hire sufficient  
10 workers to fill jobs of strikers and to  
11 continue with the operation of the plant.  
12 With the strike of so short a duration,  
13 up to that point, it is doubtful that the  
14 workers who were hired on this occasion  
15 would have been aware of its existence  
16 at all. Having been hired from the ranks  
17 of the unemployed less than one week  
18 before Christmas, the strike-breakers  
19 would naturally be reluctant to quit even  
20 after the existence of a strike became  
21 known to them."

22 MR. POLLOCK: Why do you say they were  
23 reluctant to quit after the strike became known?

24 MR. ROUSE: If they were unemployed, and  
25 now they were employed. They had been without money and  
26 now they were earning money and it was just before  
27 Christmas.

28 MR. POLLOCK: Do you think it would have  
29 made a difference to the same people that had they known  
30 on the first day that they were going to go to work and





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1 get some money a few days earlier, that they would have  
2 said "Well, there is a strike on. I am not going to go  
3 to work there", and that after they had worked there a  
4 couple of days that they had a complete change of heart  
5 toward the union cause?

6 MR. ROUSE: No, I wouldn't infer this at  
7 all. I think that, as I say, these people had been un-  
8 employed and now they have got jobs and they didn't know  
9 that a strike was on, presumably until after they were  
10 employed. Once they were in there, anyone that gets a  
11 job wants to keep that job, obviously, and they were  
12 assured of the arrangements that would be made to get  
13 them into the plant by management. Management would  
14 drive them into the plant in cars and drive them out.

15 THE COMMISSIONER: Would that be the  
16 usual way of taking them in to work?

17 MR. ROUSE: This is the advantage that  
18 this particular management of the plant established.

19 THE COMMISSIONER: But that wasn't the  
20 usual order of things. Don't you think that fact would  
21 have been significant to them?

22 MR. ROUSE: Well, they would not have  
23 been aware of the normal way of going into the plant.

24 THE COMMISSIONER: Well, really, do you  
25 think they were brought there that way in the ordinary  
26 course of engagement. I think you are underestimating  
27 the intelligence of those people.

28 MR. ROUSE: I don't think so. Putting  
29 myself in the place of a person that is unemployed.

30 THE COMMISSIONER: Well, really, that is





1 the primary purpose of a picket line. As you say here,  
2 the moment the entrances were cleared of strikers, what  
3 do you mean by that?

4 MR. ROUSE: Well, there was no picketing.  
5 If I can go into work by being driven in in a car, I am  
6 less likely to be reluctant to go in than if I had to  
7 pass through people who are opposed to my going in.

8 MR. POLLOCK: Well, what is it that is  
9 the cause of your reluctance?

10 MR. ROUSE: It could be the normal reluct-  
11 ance of a person not wishing to go against the desires  
12 of the people that are around them, not wishing to buck  
13 the crowd, as it were.

14 MR. POLLOCK: Do you mean buck the crowd  
15 intellectually or buck the crowd physically?

16 MR. ROUSE: Well, you don't stand up and  
17 shout for the Toronto Maple Leafs when you are completely  
18 surrounded by the Montreal Canadiens' fans. It was on  
19 this type of plane.

20 MR. POLLOCK: Why don't you do that?

21 MR. ROUSE: Well, I think each person  
22 has to answer to it for himself.

23 MR. POLLOCK: Well, would you answer it  
24 and try and keep it to the crossing the picket line  
25 situation.

26 MR. ROUSE: I think that the fact that it  
27 is not done--I know that personally I would not .....

28 MR. POLLOCK: Well, let me put it this  
29 way, and maybe this will shorten this considerably. If  
30 a person sees a sign and knows there is a strike on,







1 some people will respect the union ethics, so to  
2 speak. They hold the view that unions are good  
3 things and they are not going to cross the picket  
4 line because there is a dispute here, and that is the  
5 end of it, they go home. Others say, "I want a job  
6 and I will cross the picket line, but I won't cross  
7 the picket line if I am afraid that something is going  
8 to happen to me." The question can go all the way  
9 from comfort or discomfort in crossing a group of  
10 people who, I suppose under those circumstances, some  
11 kind of violence could occur to the men. Now, it is  
12 not unheard of and I am not suggesting that it  
13 occurs here at all. Is that the type of reluctance  
14 you are speaking of?

15 MR. POLLOCK: It is not the philosophical  
16 reluctance, because those people would not come there  
17 anyway. As soon as they had wind or found out  
18 there would be a strike they would go home  
19 immediately.

20 MR. ROUSE: Well, this is probably why  
21 three of them came out.

22 MR. POLLOCK: All right, so that these people  
23 were in the physical sense reluctant to cross the  
24 picket line.

25 MR. ROUSE: Correct, yes, and the thing is  
26 it takes different amounts of pressure to bring fear  
27 to different people. For instance, one person would  
28 be fairly scared if someone shouts at them, whereas  
29 some other person is not scared if someone stands  
30 directly in front of him.





1 MR. POLLOCK: Do you think it is a  
2 legitimate purpose of a picket line to raise the  
3 barrier of fear in these people's minds? Do you  
4 think the justice of the cause of the people on  
5 strike is sufficient to permit the people supporting  
6 that cause to use fear to win their dispute?

7 MR. ROUSE: I think the fear, if it is  
8 caused at all, is caused by their presence. I don't  
9 think that they are trying to cause fear.

10 MR. POLLOCK: Well, whether they try or  
11 they don't, the fact that fear is caused, we can  
12 assume that for the moment, do you think that is a  
13 proper technique in labour disputes?

14 MR. ROUSE: Well, maybe I could switch the  
15 question around. Whether the intention of management  
16 in making an ex parte injunction or an application  
17 for an ex parte injunction is, if this is the  
18 reason why they apply for an ex parte injunction is  
19 in order to break the strike, I am using it the same  
20 way that you use this question. Is this sufficient?

21 MR. POLLOCK: Well, I am thick and you say  
22 you are going to chance the question around, but  
23 I think you changed the subject. Let me ask you  
24 again. In the old days and we are familiar with the  
25 days when management employed people to cause fear to  
26 employees not to join trade unions and they aren't  
27 that far removed from the present. There is no  
28 question that the general population of this country  
29 and the United States felt that that type of activity  
30 was unsanctionable, if I can use that adjective. Do





1 you think that now it behooves labour to use the  
2 same type of technique, the fear aspect of it? If  
3 you can't convince them rationally and if you can't  
4 convince them of a trade union movement by appealing  
5 to their sense of fairness or reasonableness, then  
6 you say, "All right, instead of failing on this  
7 philosophical basis we will keep these people out,  
8 by putting a physical barrier across there, either  
9 by standing in front of them or by giving the  
10 impression to them that something will befall them if  
11 they cross the picket line."

12 MR. ROUSE: I don't think they intend to  
13 use the force. It is their job the strikebreakers  
14 are going in to take. In their opinion they have  
15 some equity in a job they possibly have built up a  
16 certain amount of seniority in and some sort of  
17 pension rate and some sort of sickness benefits and,  
18 naturally, they are interested in preserving the  
19 jobs. The fact that they have gone out on strike  
20 doesn't mean that they have completely given up  
21 their jobs, they are just temporarily suspending  
22 giving them their services.

23 MR. POLLOCK: I am not suggesting that at  
24 all. They have and whether they have in this  
25 particular dispute or not I don't want to comment on  
26 it, and I will agree with exactly what you said,  
27 but I think they have got the feeling of the property  
28 right or entrance or whatever you call it in this  
29 position and they look with a jaundiced eye at people  
30 who go in to take the position in the plant, I will







1 agree with that position. The point is, if we know as  
2 a fact that if the presence of the picket line does  
3 create fear in other people who want to go in and if they  
4 want to go in you say to them by law today you have a  
5 right to go to work just as you have a right to with-  
6 draw your labour, there is a freedom on both sides and  
7 if somebody wants to work for conditions that you don't  
8 want to work for, he is by law entitled to go to work  
9 there. Now, if he isn't committed as strongly as you  
10 are to the union feeling that I won't take somebody else's  
11 job while he is on strike, then the only way you are  
12 going to stop him from getting into that plant is to  
13 stop him physically.

14 MR. ROUSE: Well, I think fear is a very  
15 definite factor on both sides. The striker fears that he  
16 is going to lose his job to the strikebreaker, and as  
17 you say, the strikebreaker fears for his comfort or  
18 well-being in going through the picket line. I think fear  
19 is a very definite ingredient in the situation. Which  
20 is the more justified fear or the greater fear, I wouldn't  
21 care to say.

22 MR. POLLOCK: I suppose each individual, his is  
23 the greatest.

24 MR. ROUSE: Absolutely.

25 MR. POLLOCK: Is it your view that had the  
26 injunction not been granted and the number of pickets  
27 remained and I think the estimates are between 5 and 25  
28 or 35 or whatever the number was, that the plant could  
29 not have operated and would not have operated?

30 MR. ROUSE: I think they would very definitely





1 have missed a chance of operating. In order to get a job  
2 a person comes to the employer. If as an individual he  
3 comes to a plant and sees a picket line and realizes that  
4 he is going to have to cross those people in order to go  
5 and get the job he is less likely to bother, especially  
6 if he has another slip from the Unemployment Insurance  
7 telling him that he can also go to another plant to seek  
8 a position. But by being able to go in in the first  
9 instance without any pickets there and secure the job and  
10 then being sure that in future he would be driven across  
11 whatever line was there, then I think there would be  
12 less of a deterrent factor to the strikebreaker.

13 MR. POLLOCK: So then in effect it is physical  
14 security that is the determining factor in this case.

15 MR. ROUSE: Well, I think it is his fear, the  
16 point that was brought up before, or that it isn't  
17 worthwhile. He may know some of the people on the picket  
18 line and he may not wish to go against their desires. It  
19 may not necessarily be so, but it could be.

20 MR. POLLOCK: Would a picket line<sup>have</sup>/any effect  
21 on any of these people as long as they are driven into  
22 work?

23 MR. ROUSE: Well, it certainly has less  
24 effect. The effect of the picket line is not completely  
25 but almost completely lost. The purpose of the line is  
26 twofold, one to deter him and one to inform the public.

27 MR. POLLOCK: What do you mean by peacefully  
28 deterring?

29 MR. ROUSE: Well, in the event that I mentioned  
30 the fact that a person coming to take a job may know







1 someone who is on the picket line and this in itself is  
2 a deterrent to crossing. This, in my opinion, would be  
3 peacefully deterring.

4 MR. POLLOCK: Well, he identifies with his  
5 friend.

6 MR. ROUSE: That is right, and people from other  
7 unions are also there and the chances are greatly  
8 increased that there will be some on that picket line who  
9 he or she may know.

10 MR. POLLOCK: Well, assuming that this person  
11 doesn't identify with any friends and doesn't see anybody  
12 on the picket line that he knows and it is the same type of  
13 situation here that a fellow is unemployed and wants to  
14 get a job, what else can the picket line do? Assuming that  
15 the affidavit is correct and a dead-stop occurs, do you  
16 suggest that they are to physically stop people from  
17 crossing the line?

18 MR. ROUSE: No, and I don't think this has  
19 ever been the intention.

20 MR. POLLOCK: All right, if you don't stop  
21 the people there is no suggestion then, I take it, that  
22 you ought to be able to block the access and entrance to  
23 plants physically by lining up shoulder to shoulder or  
24 whatever it is in front of people crossing.

25 MR. ROUSE: Well, actually to get our opinion on  
26 this I think it is clearly stated in the brief that when  
27 the mass demonstrations went on we did not block the  
28 ingress and egress of the plant.

29 MR. POLLOCK: Well, if you don't block the  
30 entrance to the plant and the fellow doesn't know anybody





1 in the line and the fellow hasn't got any strong union  
2 feelings, how short of collaring him are you stop him  
3 from going into the plant?

4 MR. ROUSE: Well, I think everyone likes to be  
5 considered a good fellow and this is also part of the  
6 deterrent factor.

7 MR. POLLOCK: Does he cease to be a bad fellow  
8 when there is an injunction granted? Does he cease to be a  
9 bad fellow when the pickets are limited to a dozen instead  
10 of 20?

11 MR. ROUSE: I don't quite see your point.

12 MR. POLLOCK: Well, if he still has to be a  
13 good fellow the fact that he is working at a struck  
14 plant still makes him a bad fellow.

15 MR. ROUSE: Yes, that's right, but it is a  
16 matter of which he wants most. If he wants the money more  
17 than the reputation, then he is still willing to go in.  
18 If he wants the reputation, then he will stay out.

19 MR. POLLOCK: Well, assuming he wants the  
20 reputation and he wants the money and he wants to go to  
21 work. You can't keep him out, can you? If you can't  
22 persuade him by reason and you admit that it is not your  
23 intention to keep him out physically, then he will go to  
24 work, whether you have an injunction or you haven't got  
25 an injunction.

26 MR. ROUSE: But the individual who is being  
27 referred to in this illustration, is the very unusual  
28 instance or the exception to the rule. I think most people  
29 would be deterred by a picket line or for one or another  
30 reason.





1 MR. POLLOCK: Well, you make a queer statement  
2 when you say that because they may be threatened by  
3 physical harm. I don't think anybody would support a  
4 picket line because it is the best method of getting your  
5 licks in at somebody across the line.

6 MR. ROUSE: Well, I don't know how long the  
7 practice or what duration of standing this practice is,  
8 but in most cases where a picket line is put up there  
9 are police in attendance at that picket line, I think in  
10 almost every picket line here in Peterborough there have  
11 been police in attendance. So is this fear factor as great  
12 as is presented here?

13 MR. POLLOCK: Well, I don't know. I don't know  
14 if the presence of a policeman really stops anybody from  
15 getting punched. It may result in getting some  
16 retribution.

17 MR. ROUSE: But we are talking about being  
18 peacefully deterred.

19 MR. POLLOCK: I am trying to find out what that  
20 means. If peacefully deterred means try and convince  
21 somebody that your presence here ought not to scare him  
22 because he knows that you, Mr. Rouse, won't lay a hand  
23 on him, then you really haven't anything more to  
24 communicate the information.

25 MR. ROUSE: In that particular instance, yes.

26 MR. POLLOCK: As far as numbers are concerned  
27 you had on the day or the two days of demonstration a  
28 considerably larger number. The police were there in  
29 larger numbers as well and they opened up the lines to let  
30







1 the car through, and people still crossed the line and the  
2 fact that you had increased the size of the picket line  
3 from its strongest point before the injunction altogether  
4 some ten times because I think it was estimated at one  
5 stage there were 45 pre-injunction pickets and you had  
6 450 at some times.

7 MR. ROUSE: But at the time the demonstrations  
8 took place which was two months after the start of the  
9 strike quite a bit of resentment had built up between  
10 strikers and strikebreakers through catcalls and name-  
11 calling and so on, and I think that there was as much  
12 determination on the part of the strikebreakers at this  
13 point as there was on the part of the strikers. I  
14 don't think any number could stop them from going in short  
15 of resorting to violence.

16 MR. POLLOCK: But were ~~the people that were being~~  
17 employed in this plant being paid any better wages than  
18 the people that were out on the street?

19 MR. ROUSE: I couldn't give that direct  
20 evidence to this fact. It has been stated by management  
21 there that --- and I believe it stated in the hearing  
22 before the Ontario Labour Relations Board that the  
23 application of the textile workers for leave to prosecute  
24 for failing to bargain in good faith against the employer,  
25 I believe at that time it was stated by management that  
26 they had from the first day of the strike paid their  
27 employees according to the scales of wages negotiated by  
28 the union.

29 MR. POLLOCK: So that they weren't offering any  
30 ~~recourse to get~~ people to come in to work?





1 MR. ROUSE: Well, there had always been bonus  
2 arrangements at this particular plant.

3 MR. POLLOCK: But they weren't offering any  
4 terms or conditions that were better than the ones that  
5 they were prepared to offer the people that were on  
6 strike?

7 MR. ROUSE: This I am in no position to state.  
8 I can only state what I know.

9 THE COMMISSIONER: Where did these strikebreakers  
10 generally come from?

11 MR. ROUSE: (A), the Rosevale Camp, to start  
12 with. Most of them I understand are from the Peterborough  
13 area. But a lot of them had not been employed for a long,  
14 long time.

15 THE COMMISSIONER: And they would be known by  
16 the strikers, then?

17 MR. ROUSE: Yes, and a list of them was made up  
18 by the strikers.

19 THE COMMISSIONER: Were they generally people  
20 who were out of work?

21 MR. ROUSE: Yes.

22 THE COMMISSIONER: At that time was the number  
23 out of work larger than normal?

24 MR. ROUSE: It was substantial, but I wouldn't  
25 say that it was larger than normal. And, of course, it  
26 was right before Christmas and people wanted to get as  
27 much money as they could.

28 THE COMMISSIONER: I suppose most of those men  
29 are now working. They have continued to stay at work at  
30 that plant?











1 either by the M.P.P. or by the Conciliation Officer.

2 MR. POLLOCK: It would have to be persuasive  
3 only, is that what you are saying?

4 MR. ROUSE: This is the position, yes, that  
5 they can only use persuasion in these matters. I think  
6 this is probably as it should be.

7 MR. POLLOCK: Do you think Mr. Pammet is  
8 open to persuasion?

9 MR. ROUSE: I rather doubt it.

10 MR. POLLOCK: Then what effective government  
11 action could the government really take?

12 MR. ROUSE: Well, Mr. Pammet was not the only  
13 owner of the company. I think if pressure had been  
14 applied or even a request by the Premier of the Province  
15 it might have gained some action in getting back to the  
16 bargaining table.

17 MR. POLLOCK: Well, surely through the offices  
18 of the Minister of Labour the attempts were made to get  
19 them back to the bargaining table. Unless you can talk  
20 very softly as long as you have a big stick, but if you  
21 don't have a big stick, you have to shout very loudly.  
22 Sometimes that doesn't do any good. So that in these  
23 particular circumstances are you suggesting that the  
24 attitude of Mr. Pammet was not the attitude of the  
25 company, that other people in the company might have  
26 said, "Let us go back and negotiate with these people"?

27 MR. ROUSE: I think so if the Premier of the  
28 Province or the Minister of Labour had prevailed upon him

29

30 MR. POLLOCK: I don't know what you mean by





1 "prevailed upon him to do so". Would it be sufficient  
2 to paraphrase it to say "if they asked him to do so"?

3 MR. ROUSE: Yes.

4 MR. POLLOCK: And if he said, "No, we don't  
5 think anything more useful can be accomplished by prolonged  
6 negotiations", would you say that that was the end of  
7 the matter as far as the government was concerned?

8 MR. ROUSE: I am not by any means an advocate  
9 of compulsory arbitration in matters of contract negotiations.  
10 I think that this is probably one exception to the rule  
11 where very few people would argue that compulsory arbitra-  
12 tion would not have been the right course to take with  
13 this particular employer.

14 THE COMMISSIONER: Was that asked for?

15 MR. ROUSE: This was not asked for.

16 MR. POLLOCK: I am interested in the structure  
17 of that sentence. Are you saying that people might not  
18 have quarreled with the interposition of compulsory  
19 arbitration in these circumstances?

20 MR. ROUSE: Absolutely. This is, I think  
21 obviously the company did not want to bargain with this  
22 union, starting with the first day of the strike when it  
23 came to my knowledge as an officer of the Labour Council.  
24 The first offer of mediation was made by the President of  
25 the Peterborough Labour Council, Mr. Mulders, in company  
26 with the Canadian Labour Congress representative, Mr.  
27 Henry Nokes. The two of them went to the plant to see  
28 Mr. Pammet and Mr. Tripp and they arranged a meeting  
29 and they met with them and had a discussion and there  
30







1 Is a copy of Mr. Mulders' report in the appendix. The  
2 second attempt at mediation was made by a clergyman from  
3 the City of Peterborough who asked the union if they would  
4 be willing to meet with the company on the grounds  
5 of a church somewhere in the city. The union said yes  
6 and the company said no.

7 MR. POLLOCK: Was this in 1932?

8 MR. POLLOCK: This was during the strike. Three  
9 weeks of the strike and the actual date is unknown to me.

10 MR. POLLOCK: After the plant had extensively  
11 returned to full production?

12 MR. POLLOCK: Yes.

13 MR. POLLOCK: So if you can put yourself in the  
14 position of Mr. Pammet or the plant for a moment there  
15 was really nothing that he could gain. He was really  
16 in a very strong negotiating position if you consider  
17 tactical strength.

18 MR. POLLOCK: No, they were not in a strong  
19 negotiating position, but they were the recognized  
20 bargaining agent under The Labour Relations Act.

21 MR. POLLOCK: But unless he was consumed by a  
22 large dose of altruism there wouldn't be any business motive  
23 in negotiating any further. He was back into operation and  
24 his plant was working and he was making his money. Insofar  
25 as economic theories are concerned he was happy, is that  
26 a correct statement?

27 MR. POLLOCK: Yes, I think it is a correct statement.  
28 He was back into operation and he was making his money.  
29 the Minister of Labour and the members  
30





1 of the Legislature the various attempts that have been  
2 made to get this company to the bargaining table to  
3 bargain with and, as I state again, the certified bargaining  
4 agent under the Act, and asked by Mr. Donald MacDonald  
5 whether the failure of this company to attend meetings  
6 which were arranged by the Conciliation Officer and all  
7 other attempts at mediation, the failure of the company  
8 to meet on three occasions constituted a failure of failing  
9 to bargain with faith. The Minister replied that it was  
10 all the appearances of failing to bargain with faith.

5 11 MR. POLLOCK: What were the points listed by the  
12 Minister as to the methods of settling the strike, in  
13 Hansard?

14 MR. ROUSE: The efforts through the Conciliation  
15 Officer.

16 MR. POLLOCK: There have been some efforts.

17 MR. ROUSE: Yes, through the Conciliation Officer  
18 and Mr. Penner at various times.

19 MR. POLLOCK: So that really the economic  
20 struggle, if you will call it that, is over and if the  
21 union at this stage was going to proceed on the basis of  
22 inherent justice or fairness in the employer, he didn't  
23 need these people anymore as far as he was concerned and  
24 I use the word "needed" advisedly. So the only way these  
25 people are ever going to get him to negotiate is to appeal  
26 to his better motives, which I think is suggested in other  
27 places in the brief were hard to find.

28 MR. ROUSE: Yes, that is right.

29 MR. POLLOCK: The way The Labour Relations Act  
30 is structured today, of course, presupposes that both







1 parties are going to be reasonable people.  
not

2 MR. ROUSE: This was/a normal situation by any  
3 means.

4 MR. POLLOCK: That is right, if you have an  
5 unreasonable employer or unreasonable union you just are  
6 not able to cope.

7 MR. ROUSE: Right.

8 MR. POLLOCK: Do you suggest any technique and  
9 you suggest compulsory arbitration in this particular  
10 dispute and you could amplify that in this answer. Do you  
11 suggest any technique whereby those irregular cases or the  
12 ordinary negotiatio machinery doesn't work, where those  
13 cases can be dealt with by other machinery?

14 MR. ROUSE: Yes. I think if it were law that  
15 during a legal strike the employer should be forbidden to  
16 hire new workers. I think a good portion of the problem  
17 would be solved here. In most cases where you have normal  
18 parties bargaining in good faith the employer is not going  
19 to hire striketeakers. He is not at this point as  
20 concerned with continuing his operation as he is with  
21 getting a collective agreement and getting his people back  
22 into work, people that he knows, some of whom may have  
23 been working for him anywhere up to 30 or 40 years. And  
24 it is a case where you do not have normal circumstances  
25 where this new law would come into effect. I am not saying  
26 that the law should be written so that it is only used on  
27 certain occasions. I think it should be law period.

28 MR. POLLOCK: You say "new employees". If he could  
29 operate his plant with 40% of the union that refuses to go  
30 out on strike, then he ought to be free to do so.





1 MR. ROUSE: I am talking strictly on the hiring  
2 of new people to replace the strikers.

3 MR. POLLOCK: Well, if he has got --- you  
4 are not suggesting a picket line in the sense that if  
5 someone is hired that he has to close his plant by law.  
6 If he can operate it with the present work force those  
7 people who perhaps aren't persuaded to go out on strike.

8 MR. ROUSE: Yes, and take the chance of maybe  
9 not being able to sit there because of Teamsters not going  
10 to cross his picket lines and so forth, yes.

11 MR. POLLOCK: What do you need a picket line  
12 for in those circumstances?

13 MR. ROUSE: For information purposes that there  
14 is a strike on.

15 MR. POLLOCK: For information to whom?

16 MR. ROUSE: Well, I think, for example, if  
17 Teamsters are not willing to go to work at the plant  
18 because of the strike.

19 MR. POLLOCK: So that if it is peculiarly  
20 informative, then you don't need very many people. You could  
21 actually put a sign up there saying, "This plant is on  
22 strike".

23 MR. ROUSE: No, I don't think it would have the  
24 same effect.

25 MR. POLLOCK: Why not?

26 MR. ROUSE: Well, for the same reason that a  
27 policeman standing at a crossroads, the car will come to  
28 a stop and take notice of the stop sign, whereas if there  
29 isn't a policeman there he may or may not take notice of  
30 the sign.





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1 MR. POLLOCK: Well, those who are committed to  
2 stop signs as you are suggesting that Teamsters are  
3 committed to unionism, they will stop at a stop sign  
4 whether there is a policeman there or not. The same as  
5 for a union picket where you can take a sign and throw  
6 it out and it says, "We are on strike" and the  
7 picket stops.

8 MR. ROBERT: Well, if there is a sign there that  
9 has been left over from a previous occasion.  
10 If there is a person standing there holding it you know  
11 for sure that the strike is on and on right now.

12 MR. POLLOCK: Well, put a date on it and say  
13 "Today there is a strike on". But if that is your only  
14 answer, I understand your position. Now, getting back to  
15 your compulsory arbitration. It has been suggested to me  
16 in other hearings that compulsory arbitration ought to be  
17 used or resorted to when there is a danger that one of the  
18 parties is in the likelihood of being destroyed. I don't  
19 say that all of the suggestions come from both sides, they  
20 have been made by either a union or a company that has lost  
21 or is in the process of losing a very difficult strike and  
22 that they were both prepared to resort to economic weapons  
23 until they realize that the other side was better off.  
24 They then say, "We want compulsory arbitration  
25 to help us out". I would like to have your current view  
26 on that question in what circumstances, if any, should we  
27 resort to compulsory arbitration? Assuming that your economic  
28 weapons fail and I assume that is one of your answers.  
29 Are there any others?

30







1 MR. ROUSE: I think this could also be  
2 at the disposal of the Conciliation Officer,  
3 attending the Conciliation Hearings, when it is obvious  
4 to him that one of the parties is failing to bargain in  
5 good faith. They are not failing up to their respon-  
6 sibilities to bargain in good faith and are taking an  
7 attitude of "I'll do whatever I want to do".

8 MR. POLLOCK: Before I ask you whether  
9 there is any definition of "bargaining in good faith",  
10 I'll tell you that I have had considerable difficulty  
11 in finding out what it meant, too. Is there any gauge  
12 that you can measure objectively the reasonableness of  
13 another's position? Assuming that he doesn't say, "I  
14 can't afford to pay". If he says "I can't afford to pay",  
15 you can look at his books and see if he can afford to  
16 pay. But assuming he doesn't say that, assuming he just  
17 says "I don't think you are worth it and I want to take  
18 more profit out of this business than I want to pay to  
19 my workers and that is my position". He is perhaps very  
20 strong in that view. Is that not "bargaining in good  
21 faith"? Does the Conciliation Officer then have to say,  
22 "Well, if I were you I would be satisfied with a seven  
23 per cent return on my money rather than ten per cent".  
24 I would like to know how you would resolve that.

25 MR. ROUSE: Well, this is where the ex-  
26 perience of the Conciliation Officer himself would come  
27 in. I am sure that he would notice when it is correct  
28 attitude of two parties in opposite sides of the bargain-  
29 ing table and when it is not correct attitude. The very  
30 reactionary attitude is one of the parties, I think,





1 would be very obvious.

2 MR. POLLOCK: That is true, but how many  
3 of those cases are there?

4 MR. ROUSE: I would say very few in number.  
5 Probably as very few in number as at one time injunctions  
6 were. I think that the two have a bearing together.  
7 The injunction is the tool of the person who does not  
8 wish to bargain in good faith, and it is a tool with  
9 which they intend to break the union and this is where I  
10 see in this type of case these few reactionaries could  
11 be the ones where probably compulsory arbitration would  
12 be a good thing. I would prefer to see voluntary arbitra-  
13 tion. If an employer is reactionary or a union is reac-  
14 tionary, they are not going to agree to voluntary arbitra-  
15 tion.

16 MR. POLLOCK: Do you have any other sug-  
17 gestions as to the methods that can be employed to resolve  
18 these disputes where one of the parties is lost?

19 MR. ROUSE: Well, short of resorting to  
20 the method of trusteeship, no. And I wouldn't want to  
21 see them resort to the method of trusteeship, where the  
22 employer is not bargaining in good faith and the govern-  
23 ment steps in and takes over the business or, at least,  
24 imposes a settlement and then hands it back. Or, alter-  
25 natively, takes over the union negotiating. I wouldn't  
26 want to see this at all.

27 MR. POLLOCK: You would give power to the  
28 Conciliation Officer to say to one of the parties, "You  
29 aren't being reasonable" or "You are not bargaining in  
30 good faith, therefore you are going to have compulsory







1 arbitration".

2 MR. ROUSE: Well, I think this power  
3 should be vested in the Chief Conciliation Officer on  
4 the recommendation----

5 MR. POLLOCK: Right, and this would occur  
6 before, as I understand it, any kind of test of economics,  
7 if you are at the conciliation stage.

8 MR. ROUSE: No, I think it could very well  
9 happen after a test of economics.

10 MR. POLLOCK: So that the losing party  
11 can say "I have lost by the other technique I have taken  
12 and I want to try again on another one. I have nothing  
13 to lose now.. I tried to win by force, by economic force,  
14 and failed, and now I want government help". Is that  
15 what you are saying?

16 MR. ROUSE: Well, I think that any imposed  
17 decision should be a last resort and not a first one.  
18 I think the normal processes should be used first, a  
19 matter of normal free enterprising, if you like to call  
20 it, free collective bargaining. With free collective  
21 bargaining, it is the democratic method.

22 MR. POLLOCK: Do you think that free  
23 collective bargaining can only operate by a resort to  
24 strike?

25 MR. ROUSE: I think the right to strike  
26 is a very necessary part of the bargaining process,  
27 just as the management have certain axes which they hold  
28 over the head of the employees.

29 MR. POLLOCK: But it is the right to  
30 strike that is the weapon. It is the only thing that





1 compels, and let us take an employer in this case. A  
2 recalcitrant employer, to come to negotiation, if he feels  
3 that the union can use this right to strike to hurt him  
4 economically, now after the union has used this right to  
5 strike and the employer is very pleasantly surprised  
6 that he hasn't been crushed, doesn't his attitude toward  
7 negotiations automatically change?

8 MR. ROUSE: I am sure it does.

9 MR. POLLOCK: And I am sure it would be  
10 the other way around. If a union goes out on strike and  
11 the employer or, rather, if the union goes out on strike  
12 and the employer starts to lose completely, the union  
13 bargaining position increases tremendously. They have  
14 succeeded in closing off his operation.

15 MR. ROUSE: Yes.

16 MR. POLLOCK: So at that stage, you would  
17 say to the weak union and the weak employer, "All right,  
18 you can go to compulsory arbitration if you want".

19 MR. ROUSE: If compulsory arbitration is  
20 going to be used, I think this is the only time at which  
21 it should be used or it would be desirable to use it.

22 MR. POLLOCK: Well, all you are saying is  
23 that if a strike is successful, it can be defeated by  
24 compulsory arbitration, if you want to talk about it that  
25 way. Or if a strike is unsuccessful, it can be bolstered  
26 up by compulsory arbitration. So what are you accomplish-  
27 ing by having a strike in the first place?

28 MR. ROUSE: The use of compulsory arbitra-  
29 tion would not be the normal thing. And I said this  
30 earlier and I qualified it that it should only be used





1 where one party is a reactionary or is obviously not  
2 bargaining in good faith and has no intention to bargain  
3 in good faith.

4 MR. POLLOCK: I don't know what you mean  
5 by "bargaining in good faith", but certainly, there has  
6 to be an appreciation of strike on the other side in the  
7 sense of a bargain. If you are going to buy a horse and  
8 you are negotiating with me to purchase this horse from  
9 me and it has just won a Kentucky Derby, you are going to  
10 pay a lot more for it. But if you suddenly find out that  
11 the horse is dead, you are not going to pay anything for  
12 it. So that an employer who is bargaining with a union  
13 on the threat of strike and he is afraid this strike will  
14 cripple him, he will be prepared to bargain more seriously  
15 than after the union has gone out and demonstrated to  
16 the employer that it hasn't affected them at all. The  
17 bargaining position may be very high at one stage, artifi-  
18 cially high, because the two parties guessed wrong, but  
19 when the realities of the situation become evident to  
20 both of them, then the position changes completely. This,  
21 of course, is the example of the Toronto newspaper strike,  
22 where they had the best agreements ever on the basis of  
23 the very close relationship that the newspaper crafts  
24 had over the operation of the newspaper plant. Once the  
25 operation continues without them, well, I think they had  
26 very little chance of getting anywhere on the basis of  
27 their negotiation.

28 Now, let me continue on down this line. In  
29 item number 5, in the organization of this demonstration,  
30 the blocking entrances to the plant, etc., give cause for







1 arrest, etc. You would accept the fact that even an  
2 ordinary picket line blocking the entrance to a plant  
3 would increase the chance for violence and give cause  
4 for arrest. It is not peculiar to this particular demon-  
5 stration.

6 MR. ROUSE: Because of the numbers involved,  
7 it would increase the chances.

8 MR. POLLOCK: Well, numbers themselves  
9 would increase the chances, too. It is not a question  
10 of being in the entrance area. The chances of violence  
11 in a group of people of four hundred is greater than in  
12 a group of people of ten.

13 MR. ROUSE: They are easier to incite,  
14 certainly. But then it is a matter of control of those  
15 numbers, how effectively the numbers are controlled. You  
16 have far more risk of violence from an uncontrolled group  
17 of ten than you do from a controlled group of fifty.  
18 So numbers are not necessarily the only factor.

19 MR. POLLOCK: The other factor is control  
20 and I think you could probably say it would be easier to  
21 control ten than it would be to control a hundred.

22 MR. ROUSE: Yes.

23 MR. POLLOCK: I think, if I understand the  
24 purpose of your submission, it is to really set out the  
25 facts, the background and facts, of this dispute.

26 MR. ROUSE: The part that was played in  
27 the demonstration, yes. Actually it entered in the  
28 demonstration, the role of the Labour Council throughout,  
29 what later developed into a demonstration.

30 MR. POLLOCK: One of the principles of





1 the constitution of reorganization set out on the first  
2 page is to protect and strengthen our democratic institu-  
3 tions.

4 MR. ROUSE: Yes.

5 MR. POLLOCK: Perhaps you could explain  
6 how the action contravention of the order of the court  
7 strengthened and protected the democratic institutions,  
8 one of which is the administration of justice and the  
9 court system.

10 MR. ROUSE: We were protesting what we  
11 considered a very undemocratic process of law which is  
12 available to manufacturers and with which they can break  
13 strikes. We believe that to have a bargaining unit in  
14 a plant is good democracy. If by the granting of injunc-  
15 tions an employer can deny the workers in his plant the  
16 democratic process of the union----

17 THE COMMISSIONER: What do you mean by  
18 that, "democratic process of the union", when the in-  
19 junction says you shall not break the existing law?

20 MR. ROUSE: We are probably getting on  
21 two areas here. We consider that having a bargaining  
22 unit in a plant is a democratic institution, and the  
23 injunction, in this particular case, in our eyes was the  
24 cause of the employees at this particular plant not  
25 getting democratic working conditions in the plant. And  
26 in this way, we felt that we were protecting the democra-  
27 tic institution.

28 MR. POLLOCK: What are democratic working  
29 conditions in the plant? Do you vote on how much produc-  
30 tion this is?







1 MR. ROUSE: Well, it is not on the old  
2 basis of the master and servant. With a union in a plant,  
3 a worker has access to the grievance procedure for redress.  
4 This is more democratic than going up to the foreman and  
5 saying, "I don't like what you are doing" and the foreman  
6 turning around and saying, "You are fired".

7 MR. POLLOCK: I see. Let me ask you this:  
8 your key note in here is democracy.

9 MR. ROUSE: Well, this is the illustration  
10 reported as the democratic institution.

11 MR. POLLOCK: Well, by "democratic  
12 institution", you concede it to be our court. They are  
13 the safeguards of all our democratic rights.

14 MR. ROUSE: Yes, that's right.

15 MR. POLLOCK: One of the democratic rights  
16 is the right of the individual who wants to go to work  
17 in a particular place to go to work in that particular  
18 place on the terms and conditions that the employer is  
19 prepared to offer him. Or, if he wants to work in a  
20 place where a union contract has been negotiated, he  
21 is required to join the union on those terms and the  
22 courts have enforced that. So that the courts have to  
23 protect both non-union members and union people, and  
24 in union situations and in non-union situations. So  
25 that you are saying that because the court grants an in-  
26 junction which prohibits one group from depriving another  
27 group of its livelihood that it is unfair.

28 MR. ROUSE: I think you are probably read-  
29 ing into that a little more than is intended.

30 MR. POLLOCK: Well, let me ask you this





1 to make it a little simpler. It is not your position that  
2 the people have no right to go to work in a plant where  
3 there is a strike on. In our society today, people are  
4 free to go to work or not go to work.

5 MR. ROUSE: Yes.

6 MR. POLLOCK: And I suppose it is the role  
7 of the union that they ought not to work at that plant.

8 MR. ROUSE: Yes, that's right.

9 MR. POLLOCK: Now, if these people want  
10 to go to work and the court isn't forming a press gang  
11 and saying, "All you people living on this street must  
12 go to work in that plant". It is saying that anybody  
13 who wants to go to work, or I'll put it this way. It is  
14 saying to people who are trying to physically prevent  
15 people from going to work not to physically prevent  
16 people from going to work if they want to.

17 MR. ROUSE: But the police are there.  
18 You don't need an injunction in order to do this.

19 MR. POLLOCK: Then if you don't need an  
20 injunction, how does it hurt you?

21 MR. ROUSE: Because if an injunction is  
22 granted, you can all be cleared out of the way. You do  
23 not even have the chance to peacefully deter people.

24 MR. POLLOCK: You can't be all taken out  
25 of the way. I agree with a blanket injunction, that  
26 perhaps may be true.

27  
28 ---Short recess.  
29  
30





1 ---On resuming.

2

3

MR. POLLOCK: You were saying, Mr. Rouse.

4

You were in the midst of discussing the question of

5

whether or not it is really, or the court is doing much

6

more than saying to the people who try to prevent other

7

people from coming into the plant to work where they

8

seem to be happy enough to work under conditions offered

9

and in court you cannot do that and "you shall not do

10

that".

11

MR. ROUSE: I think what we were really

12

talking about is protecting and strengthening our demo-

13

cratic institutions.

14

MR. POLLOCK: Well, we were talking about

15

that, but assuming that one of the institutions is the

16

court, one of our democratic institutions is the court,

17

which protects or is charged with the responsibility

18

of protecting everybody's liberties, rights and freedoms,

19

how do you protect that institution and strengthen it if,

20

in the course of its legitimate action it sets out to do

21

just that, to protect somebody's democratic right, that

22

is, to go to work in a plant?

23

MR. ROUSE: I think earlier you mentioned

24

that we justify defying a court order as----

25

MR. POLLOCK: I was very careful not to

26

use the word "defying", but you have the right idea and

27

it is your word.

28

MR. ROUSE: The Injunctions Committee of

29

the Peterborough Labour Council never considered that

30

they were defying the order of the court in this







1 particular case. Perhaps we were under a misapprehension  
2 that the injunction order was made against the textile  
3 workers.

4 MR. POLLOCK: It really wasn't made against  
5 the workers.

6 MR. ROUSE: Well, it has been strongly  
7 pointed out since that the order referred to all persons  
8 having notice of it. The injunction also referred to  
9 the actual particular entrances and sidewalk entrances  
10 and it was our intention in staging the demonstration to  
11 protest injunctions at places other than these entrances  
12 and that the entrances would be attended only by the  
13 strikers in the numbers permitted by the injunction.

14 MR. POLLOCK: But the injunction order--  
15 and I am going on memory here--related to a geographical  
16 area, the environs of this plant, I think, are described  
17 municipally by some address or on the corner of these  
18 two streets.

19 MR. ROUSE: That the premises were located  
20 there, yes.

21 MR. POLLOCK: That is right. And all it  
22 said was that you can't attend at these premises with  
23 the exception that, four pickets for vehicular entrances  
24 and two for doorway entrances, to use the term.

25 MR. ROUSE: To put it in other words, we  
26 were not contemptuous of the order. We did not intend  
27 any contempt of the order itself. What we were contemp-  
28 tuous about, and this was stated on a number of occasions  
29 during the demonstration and before the demonstration  
30 and immediately after the demonstration, that we were





1 contemptuous of the law that permits injunctions to be  
2 used in the manner in which an injunction was used at  
3 this particular plant.

4 MR. POLLOCK: The law really does little  
5 more and the injunction in this particular case by its  
6 terms did little more than say what I have already said  
7 several times, that those people who want to go to work  
8 in that plant ought not to be obstructed from so doing.

9 MR. ROUSE: This was not the effect that it  
10 had. The effect that the injunction had in this particular  
11 instance was to uphold property rights of the employer  
12 and, as you have put it, to uphold the right of non-  
13 striking employees to go into the plant, to the detriment  
14 of the rights of the employees who had joined the bar-  
15 gaining unit, to be represented by a union and secure  
16 a collective agreement as a legally established bargain-  
17 ing agent.

18 MR. POLLOCK: The law attempts to accom-  
19 modate these interests. In these circumstances, they  
20 were conflicting interests, if you want to call them  
21 conflicting rights.

22 MR. ROUSE: That is right.

23 MR. POLLOCK: Now, the court doesn't make  
24 the law. It attempts to protect those who seek its  
25 protection from an interference with a right or liberty.  
26 These people have--and you agreed--the freedom, liberty  
27 or right, if you want to call it that, to go into work  
28 if they wanted to, and you have the right----

29 MR. ROUSE: We are not talking about the  
30 morals, now.







1 MR. POLLOCK: No, just the legal. If  
2 you want to change that law and say that people do not have  
3 a right to go into work where there is a strike, that is  
4 a different point. The court can't say<sup>that</sup>/, the legislature  
5 has to say that.

6 MR. ROUSE: That is granted.

7 MR. POLLOCK: Then how, by taking a court  
8 order made by one of these institutions which is an  
9 institution of our society, in saying that we are going  
10 to disobey that order, how do you carry out the protection  
11 and strengthening of that institution--that is, the  
12 court, which everyone should respect in its orders, that  
13 they should not be flouted even if you feel that the law  
14 is wrong, then you should get the law changed.

15 MR. ROUSE: As I stated before, we did not  
16 feel that we were in contravention of the injunction,  
17 rightly or wrongly.

18 MR. POLLOCK: Did you receive any legal  
19 advice?

20 MR. ROUSE: No, we did not, for the  
21 reasons that I have mentioned that the whole thing hap-  
22 pened very quickly, unpremeditatedly.

23 MR. POLLOCK: What happened very quickly?

24 MR. ROUSE: Well, the interest that was  
25 aroused in the city.

26 MR. POLLOCK: Oh, well now, the injunction  
27 started in December and the demonstrations took place  
28 some two months later.

29 MR. ROUSE: Yes, and as was described in  
30 the brief, the whole concern of the community sort of





1 mushroomed.

2 MR. POLLOCK: But you called meetings  
3 and organizations as to what to do and you knew the in-  
4 junction was there. Did you ever seek legal advice to  
5 see "What can we do and what can't we do"?

6 MR. ROUSE: No, we did not, as a direct  
7 answer to your question, we did not seek legal advice  
8 as to what our position was. As I say, we were under  
9 the impression that the injunction order was against the  
10 textile workers. It was applied to the textile workers'  
11 union and the persons named on the front of the injunction

12 MR. POLLOCK: If you had said or if you  
13 had sought legal advice and they had told you that it  
14 applied to anyone having knowledge, which was on the face  
15 of the order, as to what it said, would you have continued  
16 the same course of action?

17 MR. ROUSE: I think this is best answered  
18 in the transcript of the trial before Chief Justice Gale.  
19 This question--or the answer was covered. On the first  
20 day of the demonstration, Police Chief Shrubbs in his  
21 evidence told him on the first day of the demonstration  
22 that if we were not permitted by the order to demonstrate  
23 immediately in front of the plant, we would be willing  
24 to cross over to the other side and hold our demonstration.

25 MR. POLLOCK: So then the injunction order  
26 is read out by the Sheriff and shown to you beforehand,  
27 to the leaders of the group at the meeting with the  
28 Police Chief.

29 MR. ROUSE: No, the injunction was not  
30 shown at the meeting.





1 MR. POLLOCK: Well, the terms were dis-  
2 cussed.

3 MR. ROUSE: No.

4 MR. POLLOCK: Well then, without the  
5 Police Chief.

6 MR. ROUSE: There were two meetings on  
7 that morning.

8 MR. POLLOCK: But it was a year ago since  
9 I heard what happened here. If at the time before he  
10 read the order, the Sheriff, I understand, had some  
11 discussions with, what is called, "the organizational  
12 group", to tell them its terms and who it applied to and  
13 what it said and what you could do and what you couldn't  
14 do.

15 MR. ROUSE: No, the context of the dis-  
16 cussion with the Sheriff was that he had been asked to  
17 come and read the injunction to the assembled group.

18 MR. POLLOCK: Well, I don't want to  
19 quibble, but at any time did you find out what the terms  
20 of the injunction were?

21 MR. ROUSE: Yes, afterwards.

22 MR. POLLOCK: After what?

23 MR. ROUSE: After the demonstration.

24 MR. POLLOCK: You didn't listen to the  
25 Sheriff when he read it out?

26 MR. ROUSE: Even if anybody could have  
27 heard the words of the injunction, the legal jargon con-  
28 tained within that document would mean very little to  
29 people.

30 MR. POLLOCK: What is legal jargon about







1 this applying to anyone having knowledge of it?

2 MR. ROUSE: To those words isolated, as  
3 you have isolated them, nothing, but as part of the con-  
4 text of a large and much more involved statement, it is  
5 lost.

6 MR. POLLOCK: All right. If you had taken  
7 the trouble to consult a lawyer and get him to discuss  
8 this or taken the trouble to discuss the legal document be-  
9 forehand and the advice and the conclusion you came to  
10 was that the injunction applied to you---the advice of  
11 the lawyer said to you that this conduct is prohibited  
12 by the injunction, would the Peterborough District Labour  
13 Council still have embarked on that course of conduct?

14 MR. ROUSE: On the course of holding a  
15 demonstration, yes. But not necessarily in the same  
16 manner.

17 MR. POLLOCK: Would they have done the  
18 same thing that they did that day, on the 23rd and 24th  
19 of February?

20 MR. ROUSE: Possibly on the other side of  
21 the street or maybe on the street, I don't know. This  
22 is purely conjecture. There was a committee involved.

23 MR. POLLOCK: Those are all the questions  
24 I have. Thank you, Mr. Rouse.

25 THE COMMISSIONER: Have you anything more  
26 to suggest? Your brief pretty well sets forth what you  
27 have told us.

28 MR. ROUSE: Yes, sir.

29 THE COMMISSIONER: You have nothing more  
30 to add?





1 MR. ROUSE: No. We have tried to document  
2 it and make it as attractive as possible right from be-  
3 ginning to end.

4 THE COMMISSIONER: I think you have demon-  
5 strated by what you are complaining here that your com-  
6 plaint is not against the courts at all but against the  
7 legislature.

8 MR. ROUSE: In this particular instance,  
9 yes.

10 THE COMMISSIONER: And I don't know where  
11 you would be if it weren't for the courts and the law  
12 that we have. That is the essence of democracy and I  
13 must say that I think you shouldn't monopolize to yourselves  
14 the idea of democracy. I think that most Canadians are  
15 true democrats but they realize that we must have law  
16 and we must have courts and a disservice to the country  
17 that you are making, remarks, even remarks about an in-  
18 stitution of such importance without the strongest  
19 evidence to support it, and I don't think you have shown  
20 that you have that support here. But I am very much  
21 obliged to you for your statement.

22 Here we have a case where good citizens  
23 have become involved in a very nasty mess.

24 MR. ROUSE: Yes, Sir.

25 THE COMMISSIONER: Well, I think what they  
26 suggest is that you ought to try to be able to suggest  
27 new modes by which such clashes can be dealt with in a  
28 more civilized manner than simply resorting to the un-  
29 controlled passions of people, say, five hundred years  
30 ago.







1 MR. ROUSE: If I may say, sir, as it is  
2 mentioned in the brief, we are affiliated with the Ontario  
3 Federation of Labour and to our knowledge the Ontario  
4 Federation of Labour just since 1958 has made submissions  
5 to the legislature in regard to the changing of the  
6 injunction law. In 1958, they set up a committee on  
7 labour of whom a number of present and past cabinet  
8 members were members of that committee, recommended to  
9 the legislature that the law, as far as ex parte injunctions,  
10 should be changed. All these requests fell on deaf ears  
11 and changes that have been brought about for the benefit  
12 of the working people have usually come out of some  
13 similar demonstration of this type, rather than what is  
14 normally referred to as "the normal process".

15 THE COMMISSIONER: There is no doubt about  
16 it that we have been gradually emerging from the condi-  
17 tions of early civilization, if you might call it, there  
18 is no doubt about it and protestations have been the  
19 means by which the idea or justification and the fairness  
20 of these changes has been demonstrated. But, surely, we  
21 have reached the stage today where we don't have to resort  
22 to such crude methods. But, in any event, the actual  
23 attitude that you have and the conceptions you have of  
24 the function of picketing and the interference of it,  
25 depend entirely on your conception of the nature of the  
26 purpose and the limitations of picketing. And you have  
27 given us your ideas of it and we are much obliged.

28 MR. ROUSE: Thank you very much, sir.

29 MR. POLLOCK: The United Steel Workers  
30 of America, Mr. Sarginson. This is Local 5009 represented





1 by Mr. Sarginson.

2 Mr. Sarginson, we haven't had the pleasure  
3 of receiving a written brief from yourself on behalf of  
4 this organization. Perhaps you might at the outset out-  
5 line in brief form its general nature and the presenta-  
6 tion this morning and present it in whatever manner you  
7 feel you wish to.

8 MR. SARGINSON: Do I understand that you  
9 did not receive the five copies of the brief which were  
10 sent in?

11 MR. POLLOCK: No.

12 MR. SARGINSON: Well, I have the corres-  
13 pondence back and forth and I can give you the dates,  
14 and I have some copies here. These were sent to your  
15 office some time ago.

16 Inasmuch as you have not received the  
17 brief, it is very short, and perhaps I could be given  
18 the liberty of reading it.

19 "Honourable Sir----"

20 MR. POLLOCK: I stand corrected, we did  
21 receive this brief.

22 MR. SARGINSON:

23 "I am representing 14 citizens of  
24 Peterborough, Ontario, 13 employed by  
25 Outboard Marine Corp., and one employed  
26 by Raybestos-Manhattan (Canada) Limited.

27 "The 14 of us were convicted of  
28 contempt of court as a result of our  
29 demonstrating our disapproval of unjust  
30 labour laws, namely the injunctions, on





1 the public sidewalks adjacent to Tilco  
2 Plastics Ltd., in Peterborough, on February  
3 23 and 24, 1966.

4 "What the 14 of us have in common  
5 is that we are members of the United  
6 Steelworkers of America, Union Locals 5009  
7 and 5141 respectively. It is true that  
8 27 people were charged, 26 convicted and  
9 25 served sentences; 5 served 2 months,  
10 20 served 15 days and one was given a sus-  
11 pended sentence due to health reasons  
12 (Heart attack).

13 "We would like to stress that the  
14 other 12 men who were convicted and  
15 served sentence and the approximately  
16 1,000 citizens of Peterborough who took  
17 part in this demonstration, were and still  
18 are, vitally concerned about our labour  
19 laws, which we consider unjust, unfair  
20 and which completely ignore the rights  
21 of individuals, other than employers. It  
22 is because of this deeprooted concern that  
23 the citizens of Peterborough spent the  
24 time and effort to demonstrate their dis-  
25 approval on the cold winter days of  
26 February 23 and 24, 1966 in Peterborough.

27 "Because of our intimate involvement,  
28 we feel that this Commission should give  
29 our brief very careful consideration.

30 "We in Peterborough have seen the







1 Tilco workers struggle against a harsh  
2 and merciless employer. These workers  
3 organized and asked the Textile Union for  
4 representation. They were certified by  
5 law on July 29, 1965.

6 "Their Negotiating Committee laboured  
7 until December of 1965, trying to gain  
8 recognition of their Union and to improve  
9 their wage structure, which was: Start-  
10 ing rate \$1.00 per hour, average earnings  
11 \$1.12 per hour, and \$1.17 per hour when  
12 on the night shift. After going through  
13 the procedure of conciliation, they voted  
14 for a legal strike, which began on  
15 December 14, 1965. The employer immediately  
16 applied for and was granted an ex parte no  
17 picket injunction."

18 MR. POLLOCK: Let me stop you there. The  
19 date was the 17th, which was three days afterwards, and  
20 you have no quarrel with that?

21 MR. SARGINSON: No, sir.

22 MR. POLLOCK: So that the employer three  
23 days afterward applied for and received the ex parte no-  
24 picket injunction.

25 MR. SARGINSON: That is right.

26 "Taking advantage of this, the  
27 employer hired strike breakers (scabs)  
28 and continued his operations. The em-  
29 ployer continued to snub all attempts of  
30 those who tried to mediate this dispute,





Nethercut & Young

Toronto, Ontario

1 such as the Mayor, Clergy, etc., as he  
2 had done with the Conciliation Officer and  
3 other Department of Labour officials  
4 throughout post and pre-strike periods.

5 "The injunction limiting pickets to  
6 12, which followed the ex parte no picket  
7 injunction, was issued against the Textile  
8 Workers of America and also all of society  
9 (as was the interpretation of the Ontario  
10 Supreme Court). In our opinion, this  
11 infringes on the rights of all citizens.

12 "Further to this, when we consider  
13 the average earnings of these employees at  
14 Tilco Plastics in December, 1965 - \$44.80  
15 per week - as compared to \$98.53 in June,  
16 1965 and \$102.29 in June, 1966 average in  
17 the City of Peterborough (these figures  
18 as supplied by local C. M. A. branch and  
19 are industrial figures and do not take  
20 commerce into account), ..."

21 MR. POLLOCK: Would you say that the  
22 average of people working in local industry was higher  
23 than the average of Peterborough?

24 MR. SARGINSON: Yes, and I am implying  
25 that Tilco Plastics is an industry and should relate to  
26 the average in Peterborough.

27 MR. POLLOCK: Well, it is not mentioned  
28 in the same line as Outboard Marine and Canadian General  
29 Electric and the other large companies that operate in  
30 the Peterborough area.





1 MR. SARGINSON: No, but, of course,  
2 Peterborough is made up of a number of smaller units  
3 within our industrial organization supplying the larger  
4 plants and a lot of them are sort of sub-suppliers.

5 MR. POLLOCK: But these large plants are  
6 the bigger employer and their higher salaries would  
7 contribute greatly to raising the average industrial  
8 salary.

9 MR. SARGINSON: Yes, this would take into  
10 account your plant managers and superintendents and their  
11 salaries are also included, which would tend to inflate  
12 it to some degree. But, again, we are talking averages.

13 "... it is quite evident that good citizens  
14 should assist our elected representatives  
15 to eliminate or try to alleviate our  
16 pockets of poverty in this Province.  
17 For their efforts, good citizens are  
18 convicted criminals and thrown into jail.  
19 Peterborough is known as a model community,  
20 its citizens as good, law-respecting citi-  
21 zens, who can and have demonstrated peace-  
22 fully.

23 "When we see a law used as a license  
24 to exploit people by taking away their  
25 jobs, which some have had for as long as  
26 17 years and keeping others wages at such  
27 a low rate, we can no longer respect such  
28 a law. At the time of writing, the Tilco  
29 strikers are still on strike and the  
30 plant is still operating and paying low







1 wages. The 35 people who went on strike  
2 have no prospect of returning to work at  
3 this plant.

4 "Most Honourable Sir, we ask you, is  
5 this justice?

6 "When people respect and abide by  
7 laws regarding their organization, certifica-  
8 tion, negotiations, conciliation and their  
9 right to strike and then are beaten into  
10 complete submission by another law, which  
11 nullifies all their previous efforts in  
12 following laws which were supposedly  
13 designed to give dignity to individuals.

14 "We suggest that the people of this  
15 Province have good reason to be contemp-  
16 tuous of injunctions in labour disputes,  
17 as Tilco is only one example in Ontario.

18 "We do not feel that injunction laws  
19 were made for labour disputes and that,  
20 in their present state, they do more harm  
21 than good in management-employee disputes.  
22 We would further suggest that, if this  
23 contemptuous attitude continues, it will  
24 ferment into the natural evolution of violence  
25 which I am sure you will agree, is most  
26 undesirous.

27 "For these reasons, we urge you to  
28 recommend:

29 'that injunctions be banned from labour  
30 disputes', and if, in your good judgment,





1 you cannot agree with this, please con-  
2 sider changes and recommendations which  
3 will guarantee equal rights and privileges  
4 to all citizens - the employee and his  
5 representatives, as well as those of the  
6 employer.

7 "In conclusion, those of us who were  
8 confined to jail, whose families were so  
9 inconvenienced by our serving of those  
10 sentences, are more convinced than ever  
11 today that our actions in demonstrating  
12 were for the good of all citizens of this  
13 Province. It is true, people can lose  
14 their freedom, but our consciences cannot  
15 be confined or arrested. This problem  
16 has been ignored far too long by our present  
17 legislators.

18 "We have a great deal of faith in this  
19 Commissioner, Honourable Ivan C. Rand,  
20 LL.D., that he will conscientiously make  
21 just recommendations.

22 "It is hoped, and we pray, that this  
23 Commission Report and recommendations are  
24 not watered down when implemented, or will  
25 sit and gather dust, as has been the fate  
26 of so many past Commission Reports."

27 This is respectfully submitted on behalf of the following  
28 members: Clarence Wilson, George N. Rutherford, William  
29 Mulders, Roderick J. Moloney, Merton G. Pearse, Victor  
30 Doughty, Harry Woodbeck, Jack Urquhart, myself, Robert





1 Sarginson, John Pacey, Robert Beauliah, William Staunton,  
2 Robert Kelly, Jr., and Bruce Castle.

3 MR. POLLOCK: There is one question that  
4 I have. On the third page of your submission, in the  
5 third paragraph,

6 "... When people respect and abide by laws  
7 regarding their organization, certifica-  
8 tion, negotiations, conciliation and their  
9 right to strike and then are beaten into  
10 complete submission by another law, which  
11 nullifies all their previous efforts in  
12 following laws which were supposedly  
13 designed to give dignity to individuals."  
14 That is the question of, is this justice.

15 Now, I want to ask you what you think the  
16 right to strike conotes. What conduct are you permitted  
17 to use apart from the simple withdrawal of your labour?

18 MR. SARGINSON: Well, I think when people  
19 withdraw their labour that they should have the right of  
20 protecting their jobs which they have left, and I don't  
21 believe that to limit pickets, that there is real justifica-  
22 tion for it.

23 MR. POLLOCK: What techniques can you use  
24 to protect this right?

25 MR. SARGINSON: I would suggest that we would  
26 be in favour of a law----

27 MR. POLLOCK: Not a law, but what can you  
28 as strikers do to make sure that your strike is success-  
29 ful?

30 MR. SARGINSON: By picketing and trying to







1 prevent other people from taking the jobs that they have  
2 vacated.

3 MR. POLLOCK: Well, what can you use to  
4 prevent other people?

5 MR. SARGINSON: By pickets and pickets'  
6 signs.

7 MR. POLLOCK: By pickets and pickets' signs?

8 MR. SARGINSON: Yes.

9 MR. POLLOCK: Well, we discussed this  
10 earlier with Mr. Rouse. Are you suggesting that you have  
11 the sign communicating the information that there is a  
12 strike on at this place and do not cross. Is it that  
13 type?

14 MR. SARGINSON: Yes.

15 MR. POLLOCK: Are you suggesting that you  
16 are able to speak to people who want to go into work  
17 there?

18 MR. SARGINSON: Yes, this is quite true.

19 MR. POLLOCK: Are you suggesting that you  
20 ought to stop people from going in there, physically?

21 MR. SARGINSON: No.

22 MR. POLLOCK: So you draw the line there.  
23 It is a question of persuading them rationally.

24 MR. SARGINSON: Right, and I think if a  
25 number of the local that is out and if they could put  
26 all their members on the picket line at the time that  
27 other people would be going to or coming from work is  
28 the ideal time for the pickets to be there, to try and  
29 persuade these people that they are working for conditions  
30 which are substandard and that in effect, they are





1 defeating the working men by simply scattering the job.

2 MR. POLLOCK: How does the increasing of  
3 numbers add to rationality?

4 MR. SARGINSON: Well, I think in numbers,  
5 going back to the demonstration, the fact that enough  
6 people were this concerned to go out and demonstrate,  
7 then there must be an injustice.

8 MR. POLLOCK: I am talking now not about  
9 the demonstration but you are speaking about the injunc-  
10 tion law. I am talking about the injunction that limits  
11 the number of pickets.

12 MR. SARGINSON: Well, I'll say that the  
13 injunction, in my opinion, takes away the right of the  
14 people after giving them certain rights to a certain  
15 point, then nullifying it all.

16 MR. POLLOCK: Well, where is this point  
17 of finding out what the basis for that opinion is. We  
18 know what your opinion is but we want to know how you  
19 arrive at that opinion, and we are trying now to narrow  
20 down what the right to strike carries with it apart from  
21 the withdrawal of labour. So, if I am correct in drawing  
22 this conclusion from what you have said, you are not  
23 going to physically stop these people. If you try to  
24 tell them that there is a strike on and they say, "I  
25 know" and you say, "You are destroying the union move-  
26 ment if you cross the line" and they say, "I don't care",  
27 then they can go in.

28 MR. SARGINSON: Yes.

29 MR. POLLOCK: Now, you heard me, I think,  
30 read parts of an affidavit taken this morning /to grant  
submitted





1 this injunction. Now, assume for the moment that the  
2 facts disclosed there are so, that the picket line did  
3 obstruct the entrance, did stop the cars going in and  
4 out. Do you have any objection to an injunction prohibit-  
5 ing that type of conduct?

6 MR. SARGINSON: Obstructing a driveway  
7 could take place at any time whether there is an injunction  
8 or not. A pedestrian has the right of way to a sidewalk,  
9 is that not right?

10 MR. POLLOCK: Well, let's not quibble, Mr.  
11 Sarginson. I am not suggesting a situation of a lady  
12 pushing a pram past a driveway. These are people that  
13 they were trying to stop their cars from going in,  
14 weren't they?

15 MR. SARGINSON: But in the submissions that  
16 were presented when the request for the injunction was  
17 granted, this was the objection used, that they were  
18 stopped.

19 MR. POLLOCK: They were blocking the drive-  
20 way. On several occasions, several different people tried  
21 to drive in and the people stood in front of their cars  
22 and stopped them from driving in.

23 MR. SARGINSON: And you don't think that  
24 they could be prevented from coming out of their driveway  
25 on occasions by ordinary pedestrians regardless of the  
26 injunction?

27 MR. POLLOCK: I am not talking about  
28 ordinary pedestrians. I am asking if you object to that  
29 type of injunction which is included in the right to  
30 strike being prohibited, and I would assume that you don't







1 object to the prohibition of people hitting other people  
2 on the head if they cross the line. Now that goes even  
3 without saying, doesn't it?

4 MR. SARGINSON: Yes.

5 MR. POLLOCK: All right. So that if the  
6 injunction limits that type of conduct and it prevents  
7 people from preventing access or it tells people that they  
8 ought not to prevent access, which everybody should know  
9 but which perhaps they don't know the law so it brings it  
10 to their attention that they have a right to strike and  
11 they have a right to communicate information but they have  
12 no right to obstruct or prevent physically people from  
13 entering the plant. Now, you won't quarrel with that,  
14 will you?

15 MR. SARGINSON: No.

16 MR. POLLOCK: So that this other law didn't  
17 really nullify the previous efforts if it limited the  
18 conduct to a legitimate communication of information.

19 MR. SARGINSON: Well, I disagree when you  
20 say that the law didn't prevent them from striking, this  
21 is true, but I think in a strike an important facet of  
22 a strike is picketing and when you start limiting the  
23 number of pickets, then I think that this is where we are  
24 at odds.

25 MR. POLLOCK: But the question is what this  
26 picketing means and what it involves. You can't tell me  
27 that every picket line has been exactly the same. In  
28 some picket lines, there is terrible violence and they  
29 burn cars and other picket lines are peaceful and nobody  
30 bothers about having a large number of people and the





1 plant is closed for other reasons. The plant may be  
2 closed and on a construction, say, one or two people  
3 can close up the plant and close up the site. So that  
4 picketing carries with it a whole range of conduct, do  
5 you agree?

6 MR. SARGINSON: Yes.

7 MR. POLLOCK: Now, we have to define what  
8 we are talking about, what we think the legitimate tech-  
9 niques of picketing ought to be employed. Clearly, if  
10 you want to absolutely enforce the right to strike, then  
11 I think a lot stronger element should be used than just  
12 the communication of information. Now, the question is  
13 whether the rest of society would agree to it. What I  
14 want to know is if the persuasion of a picket line that  
15 communication of the information can't be done by ten or  
16 twelve or fifteen or twenty people, what does twenty more  
17 add to that line?

18 MR. SARGINSON: I think it adds a lot  
19 especially if strike-breakers are entering or leaving the  
20 plant. If you could put yourself in this person's posi-  
21 tion and you are going to either enter or leave the plant  
22 and you see all of the employees and you are taking their  
23 job away, I think on your conscience this would weigh  
24 heavier than just having one or two individuals picketing.

25 MR. POLLOCK: Would it weigh sufficiently  
26 heavy to keep you from working in that plant?

27 MR. SARGINSON: It could be the difference  
28 between a person insisting on taking another's job or  
29 not, I think that it could.

30 MR. POLLOCK: Did the four hundred people





1 that were out there on February 23rd and 24th have any  
2 effect on the people that crossed through the lines that  
3 day to go to work?

4 MR. SARGINSON: No, because they were  
5 isolated from these people because they were ferried back  
6 and forth in cars provided by the company.

7 MR. POLLOCK: But they knew the strike  
8 was going on and they saw all those people and they knew  
9 they were taking their jobs, surely, by that time?

10 MR. SARGINSON: There were some who did  
11 have a change of heart.

12 MR. POLLOCK: But those people who crossed  
13 through the line knew all that and they just didn't agree  
14 with you, isn't that the long and short of it? They felt  
15 that they wanted to work more than they wanted to let  
16 somebody else work there. Isn't that correct?

17 MR. SARGINSON: This is true.

18 MR. POLLOCK: So you really couldn't  
19 persuade them.

20 MR. SARGINSON: We didn't have the oppor-  
21 tunity or the picketers didn't have the opportunity of  
22 persuading them when they were being isolated from the  
23 pickets by being transported in cars.

24 MR. POLLOCK: Well, some of them walked in  
25 on those days.

26 MR. SARGINSON: On the days of the demon-  
27 stration?

28 MR. POLLOCK: Yes.

29 MR. SARGINSON: I didn't see them and I  
30 was there on that occasion.







1 MR. POLLOCK: I don't know the gentleman's  
2 name but he had a windbreaker on, some team windbreaker,  
3 he walked through the line.

4 MR. SARGINSON: Well, I don't know, there  
5 was no one crossed that I can recall.

6 MR. POLLOCK: Well, it was on television  
7 that I saw it. However, nothing turns on that. The  
8 fact is, what if these people don't want to be persuaded  
9 and what if they have made up their mind and they say,  
10 "I don't care what you say, I really don't have any  
11 interest in the trade union movement, I want a job to  
12 make some money"?

13 MR. SARGINSON: Then what you say is that  
14 it's all right to steal. The fact that these people are  
15 stealing another person's job.

16 THE COMMISSIONER: You said that there  
17 were thirty or thirty-five members in this union?

18 MR. SARGINSON: Yes.

19 THE COMMISSIONER: Were they the total of  
20 the producers, would you say?

21 MR. SARGINSON: Pretty much so, other than  
22 the supervisory staff and the tooling section, yes.

23 THE COMMISSIONER: Who were they? Were  
24 they women?

25 MR. SARGINSON: Mostly women, yes.

26 THE COMMISSIONER: From what age?

27 MR. SARGINSON: Oh, they ranged anywhere  
28 from eighteen to older women and widows.

29 THE COMMISSIONER: What was the nature of  
30 their work?





1 MR. SARGINSON: It was the making of  
2 objects from plastic. They are a commercial line for  
3 stores and it is combs and barettes and things of this  
4 nature, spatulas and things.

5 THE COMMISSIONER: Is that done through  
6 molds?

7 MR. SARGINSON: Yes, and there are  
8 machines and the plastic is molded in a pot and ejected  
9 into cold molds and of course when it hardens, they have  
10 the product.

11 THE COMMISSIONER: Would these older women  
12 do work of that nature?

13 MR. SARGINSON: Yes.

14 THE COMMISSIONER: How long has the plant  
15 been in here, in the city?

16 MR. SARGINSON: The plant has been in  
17 operation in Peterborough for some fifteen or twenty years.

18 THE COMMISSIONER: That would be four or  
19 five years before the organization of the union?

20 MR. SARGINSON: Yes. This wasn't the  
21 first union to organize this plant. Another union did  
22 on a former occasion and, of course----

23 THE COMMISSIONER: Well, how many of these  
24 employees took part in the picket line at any time?

25 MR. SARGINSON: All of them did.

26 THE COMMISSIONER: They didn't keep up a  
27 twenty-four hour attendance?

28 MR. SARGINSON: No, mainly from seven in  
29 the morning until seven at night or maybe up to midnight  
30 when they had a midnight shift on.





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1947

1 MR. POLLOCK: Were the patrols which  
2 were allowed composed exclusively of employees on strike?

3 MR. SARGINSON: Yes.

4 MR. POLLOCK: Well, it didn't specify that.  
5 Any twelve could picket.

6 MR. SARGINSON: But mainly it was the  
7 employees who were doing the picketing.

8 Going back to your original question, sir,  
9 most of the girls were young, around twenty years of age  
10 plus or minus two years, but there were a few older women  
11 and I would estimate their ages at fifty-five or sixty.

12 THE COMMISSIONER: How many women would be  
13 of that age?

14 MR. SARGINSON: Probably six or eight that  
15 were over fifty.

16 THE COMMISSIONER: The others were younger?

17 MR. SARGINSON: Yes.

18 THE COMMISSIONER: How young would they be  
19 taken into the plant?

20 MR. SARGINSON: At seventeen or eighteen.

21 THE COMMISSIONER: All right, thank you,  
22 Mr. Sarginson.

23 MR. POLLOCK: Thank you, Mr. Sarginson,  
24 Unless you have anything else to say. I take it you sup-  
25 port the brief of the Peterborough Labour Council as well?

26 MR. SARGINSON: Yes.

27 MR. POLLOCK: United Electrical, Radio  
28 and Machine Workers, Local 524, Mr. Woodbeck. Mr. William  
29 Woodbeck.

30 We have had an opportunity to read your







1 brief, Mr. Woodbeck. It was received yesterday and it  
2 deals in main with the dispute in which your union was  
3 involved, and in passing, it deals with the Tilco Plastics.  
4 Is that a correct characterization?

5 MR. WOODBECK: That is correct.

6 MR. POLLOCK: As I said earlier to Mr.  
7 Rouse, you can present this in a manner which would best  
8 suit your own purposes. We have read it and we prefer  
9 that you not read it again into the record for that  
10 reason and perhaps you could deal with some highlights in  
11 it and then we could discuss some aspects of it, if that  
12 suits your purpose.

13 MR. WOODBECK: It had been our intention  
14 to read it to the Commission, but if you would sooner not  
15 hear it, certainly we don't have to go through it.

16 MR. POLLOCK: I don't want it to sound  
17 like we don't want to hear it. Perhaps if you want to  
18 read it and if you are going to read it verbatim, then  
19 we will eliminate it from the transcript for those pur-  
20 poses because the briefs will be filed along with the  
21 transcripts anyway as exhibits.

22 MR. WOODBECK: Well, it was our intention  
23 in preparing this brief to point out the use of injunc-  
24 tions in labour disputes exactly in that dispute at  
25 Tilco and showing the difference in how they came about.  
26 That was the reason for this type of brief being presented.  
27 So, I would like to read it out.

28 --- (Brief read into the record).

29 MR. POLLOCK: In the strike at the C.G.E.,  
30 Mr. Woodbeck, all of your members, 3,200, went out on





1       [unclear], I take it?

2                   MR. WOODBECK: That is right.

3                   MR. POLLOCK: You say on page 2, "maximum  
4 involvement of our 3,200 members". You didn't have  
5 3,200 members standing out in front of C.G.E., did you,  
6 at any one time?

7                   MR. WOODBECK: No.

8                   MR. POLLOCK: Would you agree with this  
9 statement that the very fact of the withdrawal of 3,200  
10 members from the C.G.E. plant where, I take it, there is  
11 considerable skill to be used in the assembling of what-  
12 ever they are assembling at C.G.E. here, the very fact  
13 that 3,200 people would withdraw their labour is sufficient  
14 to close the plant? Could you employ 3,200 people of  
15 equivalent skill from within the City of Peterborough at  
16 that time?

17                   MR. WOODBECK: There could have been a  
18 number of people employed in the plant. The plant was  
19 not actually closed, there were more than 2,000 people  
20 going into work who were not members of our union but  
21 were members of different unions within the shop, and  
22 management people.

23                   MR. POLLOCK: Well, your members--you  
24 are members of one of the production units?

25                   MR. WOODBECK: The production unit, yes.

26                   MR. POLLOCK: So that in your absence,  
27 the company couldn't produce, could they?

28                   MR. WOODBECK: Not very well.

29                   MR. POLLOCK: So the withdrawal of your  
30 labour was sufficient, really, to halt production at





1 that point, and they couldn't really resort to the employ-  
2 ment of outside personnel because they couldn't find  
3 3,200 people--probably couldn't find 3,200 people in  
4 Peterborough who were willing to work and certainly,  
5 they couldn't find 3,200 people with enough skill to work.

6 MR. WOODBECK: No, but if you look at it  
7 how they tried to break the unions; first of all, they  
8 started out with one scab and then two scabs and the more  
9 they can get, I am quite certain that if they had tried  
10 to recruit scabs in the city, they might have got some.

11 THE COMMISSIONER: Yes, but how many?

12 MR. WOODBECK: It is hard to say.

13 THE COMMISSIONER: What fraction of  
14 production could they possibly have attained?

15 MR. WOODBECK: I wouldn't want to hazard  
16 a guess, but if they wanted to take scabs across the  
17 picket line, they could have tried to do it. But the  
18 fact was that they didn't try.

19 MR. POLLOCK: And, of course, they would  
20 have to try to do that for this organized C.G.E. and its  
21 other plants, too. It wasn't an isolated circumstance.  
22 What I am really trying to do now, if possible, is to  
23 draw some distinction between the reasons that you were  
24 successful at C.G.E. and the reason they failed at the  
25 Tilco. Some of them are because of size and some of them  
26 are because a stronger union has been organized there  
27 longer and you have negotiations at other plants, and  
28 perhaps the company attitude that didn't think it would  
29 employ strike-breakers. They may have a firm policy not  
30 to employ strike-breakers and so much the better for them.







1 MR. WOODBECK: The policy is that if they  
2 could employ strike-breakers, they would. At the time  
3 we were on strike there were forty strikers on strike  
4 and nobody tried to cross the line. At our most recent  
5 enterprise at Trenton where 180 workers were employed  
6 the company had three scabs going across the picket line  
7 and the company encouraged it, but it didn't go out  
8 seeking an injunction to try a full-scale recruiting of  
9 the scab labour to operate the plant, so, in fact, the  
10 company did, in fact, have scabs going in other areas and  
11 even in our own plant here there were a few and we  
12 weren't able to pick them up because they dressed up in  
13 white shirts going into the plant and we weren't able  
14 to know who they were, but we are getting them nailed  
15 down now.

16 THE COMMISSIONER: How many people were  
17 employed on the second strike you spoke of?

18 MR. WOODBECK: In the earlier area, they  
19 took place at the same time.

20 MR. POLLOCK: I think you said 180.

21 THE COMMISSIONER: You mentioned three  
22 altogether.

23 MR. WOODBECK: The strikes took place  
24 at the same time, Your Honour.

25 THE COMMISSIONER: But how many employees  
26 were in the second place, at the place of the second  
27 strike?

28 MR. WOODBECK: In Barrie, there were about  
29 40 people out of about 500, that was our bargaining  
30 unit in the production department.





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1 THE COMMISSIONER: Did the 500 go off  
2 work?

3 MR. WOODBECK: Yes. But the company  
4 didn't hire any new people, it was 40 people who were  
5 in the plant but were not members of the Union.

6 THE COMMISSIONER: Were they members of  
7 another union?

8 MR. WOODBECK: No. They could<sup>have</sup>/been hired  
9 in basically to break the morale and our feeling is it  
10 was to break the morale of the people at the picket line,  
11 even if they were doing absolutely nothing in the plant  
12 of a constructive nature.

13 THE COMMISSIONER: But, when you have a  
14 large industry of that nature and a certain strike  
15 and the members go out, your plant necessarily stops.

16 MR. WOODBECK: It is true that in most of  
17 these cases and our recent one that the production  
18 actually stopped.

19 THE COMMISSIONER: So the object of your  
20 strike is accomplished?

21 MR. WOODBECK: Yes, Your Honour.

22 THE COMMISSIONER: So, all that remains  
23 is to preserve the solidarity of your union?

24 MR. WOODBECK: That is true, if the  
25 management of the company goes along with that and it  
26 has been said before, and rightly so, that another  
27 union organized the Tilco plant. That happened to be  
28 our union, the United Electrical Workers organized that  
29 plant in 1951, and we tried to get an agreement with  
30





1 Pammett, and we finally succeeded in getting one. It was  
2 a very poor nature and the second set of negotiations in  
3 dealing with him he laid off all his workers.  
4 He had people into the plant who would not join the  
5 union because of the shop not being in effect there and  
6 he was able over the next two years to virtually smash  
7 our union and he carried on the very same tactics  
8 that he has carried on against the Textile Workers'  
9 Union and the result has been the very same thing here  
10 in Peterborough, that this Tilco Plant that has opened  
11 up here, I think around 1946 or 1947, ever since that  
12 time the Management has been able to keep the wages and  
13 working conditions of those people at a bare, bare  
14 minimum.

15 THE COMMISSIONER: I suppose your view  
16 would be on that particular point, that the most important  
17 factor in these troubled occasions is the view that some  
18 outsider is taking your place in the plant?

19 MR. WOODBECK: That is correct.

20 THE COMMISSIONER: All right, thank you.

21 MR. POLLOCK: On the 4th page of your  
22 brief you talk about the lowest rate for women workers  
23 is \$2.14 in your plant and the lowest rate in Tilco was  
24 a minimum wage of \$1.00 an hour. Is there any difference  
25 in the skill required by women workers in your plant as  
26 compared to these women. Are they more skilled than the  
27 people who worked at Tilco?

28 MR. WOODBECK: Let's take an example of  
29 a girl who cleans the washrooms. If there is any differ-  
30 ence between cleaning a washroom at Canadian General







1 Electric and cleaning a washroom at Tilco, I fail to  
2 see it. In the operating of machines, I would say the  
3 girls at Tilco, in many instances, are operating more  
4 complicated machines than we have got, so I would say  
5 that the skills required at Tilco would probably be  
6 superior in some cases to the skills that we have. The  
7 rate of \$2.14 an hour is the new rate that just went into  
8 effect, by the way, and at the time of the dispute the  
9 rate for girls at our plant was \$1.98.5, and this is  
10 the current rate of our girls now, but the girls at Tilco  
11 are still working for the same rate that they were at the  
12 time of the demonstration.

13 MR. POLLOCK: But they are different girls  
14 now at Tilco. Could you bring people off the street, so  
15 we speak, and put them into an operation at your plant  
16 as easily as they could at the Tilco?

17 MR. WOODBECK: I would say more easier.

18 MR. POLLOCK: It is a question of numbers,  
19 is it?

20 MR. WOODBECK: It is a question of numbers.  
21 What they did at Tilco and the people that were there,  
22 I picketed that plant along with some of the girls from  
23 Tilco during the months of January and February last  
24 year, as part of the twelve people that were allowed to  
25 be there, and most of the time we were there the people  
26 inside the plant working for Pammet were not working.  
27 They were standing looking out the window and you  
28 mentioned earlier about a bonus, that these people get  
29 a bonus. They certainly got a bonus, they were driven  
30 back and forth to work every day, and I am quite certain





1 that no factory operators intend people to transfer you  
2 back and forth to work, so I would say they certainly  
3 had a bonus in being strike-breakers.

4 MR. POLLOCK: Well, I suppose that's a  
5 bonus, are they still being transported back and forth?

6 MR. WOODBECK: I have no knowledge of that.  
7 Since I got out of jail, I haven't been up there.

8 MR. POLLOCK: Do you know what the facts  
9 were in this Paine Lumber case?

10 MR. WOODBECK: No, I don't, offhand.

11 MR. POLLOCK: You don't know what the  
12 injunction was and you don't know what the techniques  
13 were that were used by the employer. The other thing is  
14 that it was 1898 and at that time strikes were illegal  
15 and injunctions were granted to prevent striking.

16 MR. WOODBECK: I have a clipping in my  
17 desk and I could show it to you later.

18 MR. POLLOCK: Do you know what jurisdiction  
19 it was in?

20 MR. WOODBECK: It would be in Ontario,  
21 I'm pretty sure.

22 MR. POLLOCK: It would be in the United  
23 States, I believe. I would think probably the eastern  
24 United States. Oh, it was Oshkosh, Wisconsin. Could  
25 I keep this piece of paper and introduce it as an  
26 Exhibit to your statement and it will be marked No. 1.  
27 I want to use it as a statement or a brief.

28

29

30





1 Now, I have been trying to find out this morning and  
2 through the questions at the hearings of this Commission,  
3 what is the interpretation of the term "Right to strike".  
4 Now you deal with it briefly in your memorandum or sub-  
5 mission, and you say that it is inherent that a man has  
6 the right to picket.

7 MR. WOODBECK: Yes.

8 MR. POLLOCK: What is inherent in the  
9 right to picket. Why type of conduct is permissible or  
10 ought to be permissible?

11 MR. WOODBECK: Well, the type of conduct  
12 should be that type of conduct of the people that are  
13 there to protect their jobs and to make their union work  
14 for them on the basis of getting a just settlement,  
15 and they have the right to picket that plant and that  
16 right shouldn't be taken away from them by court  
17 injunctions, and if a person violates the law by hitting  
18 somebody or smashing windows, the employer or the person  
19 can use the courts as we now have them to lay assault  
20 charges, to lay willful damage charges, and this is the  
21 type of action that should be taken against people that  
22 provoke and do violence on the picket line, whether it  
23 be from the striker or from a scab who, in trying to  
24 go across the picket line, bullies his way through, and  
25 he should be eligible to be charged under the law and  
26 a person who protects himself he should not be charged,  
27 and vice versa.

28 MR. POLLOCK: Well, if I could get from  
29 that these points. You would agree that lawful picketting  
30 does not include violence?







1 MR. WOODBECK: That is correct.

2 MR. POLLOCK: Lawful picketting does not  
3 include damage to property?

4 MR. WOODBECK: That is right.

5 MR. POLLOCK: Well, I am not sure whether  
6 lawful picketting includes the privilege of obstructing  
7 access to the plant.

8 MR. WOODBECK: I would say that it does,  
9 lawful picketting, that is.

10 MR. POLLOCK: You say that you ought to  
11 be able to prevent people from going in by standing in  
12 front of them?

13 MR. WOODBECK: Yes.

14 MR. POLLOCK: How does that conflict with  
15 persons' rights, and I still think there is that right  
16 today, to go into a place that he wants to work under  
17 whatever conditions he wants to work under, so long  
18 as they aren't below the ones prescribed by law.

19 MR. WOODBECK: Well, it is my own personal  
20 opinion that a person should not have the right to go in  
21 and take another person's job.

22 MR. POLLOCK: No, but I am just talking  
23 about legal rights at the moment.

24 MR. WOODBECK: Well, if you take a look  
25 at it, maybe this would answer your question. Many,  
26 many people think the right to work law is the right for  
27 the government and the companies of this country to  
28 provide you with work, and that is not a fact.

29 MR. POLLOCK: No, no, right to work laws  
30 are designed to combat those situations where you have





1 union shops and union security laws. We know about that.

2 MR. WOODBECK: The right-to-work law is  
3 not actually what it means. It is the right to steal  
4 somebody else's job, basically, that's what we should say  
5 about the right-to-work law.

6 MR. POLLOCK: Well, we are not arguing  
7 about a right-to-work law. I am saying that, today,  
8 there isn't any law that says to an individual "You are  
9 prohibited from working in this plant".

10 MR. WOODBECK: That is correct.

11 MR. POLLOCK: Now some people may say  
12 that there ought not to be that type of law, but under  
13 the existing circumstances today, I can go and get a job  
14 in a plant if they are willing to hire me, and they can't  
15 discriminate me for any reason. If there is a union in  
16 that plant, I have to join the union perhaps, depending  
17 on the agreement and the courts have been quick to point  
18 out that if someone refuses to join the union in a union  
19 shop, that he can be dismissed and they have done it.

20 MR. WOODBECK: That is right.

21 MR. POLLOCK: So that in this particular  
22 plant there is no agreement in effect, so that anybody  
23 can go to work there, theoretically, and that is what  
24 the free period meant on the question of strike. They  
25 weren't laying off anybody, if they were on strike. So  
26 you are saying that we have been able to withdraw our  
27 labour and be supported in that action by resort to  
28 depriving other people of a right that they have.

29 MR. WOODBECK: Well, if this is done by  
30 the use of an injunction.





1 MR. POLLOCK: But we haven't got to the  
2 injunction yet. I am saying that is your position.  
3 You say that you ought to be able to stop people from  
4 going into the plant where you admit that they have a  
5 ~~right~~. Then, as far as your moral persuasion  
6 is concerned, they ought not to be in there and people  
7 who do it are probably, in your eyes, despicable people.  
8 That's all right, but as far as the law is concerned  
9 and the rest of our community is concerned, nobody has  
10 adjudicated on that aspect ever.

11 MR. WOODBECK: That is correct.

12 MR. POLLOCK: So that you are saying that  
13 picketting ought to stop that fellow from the exercise  
14 of his desire and his freedom to go and work  
15 there.

16 MR. WOODBECK: That is right.

17 MR. POLLOCK: Not only just persuade him,  
18 but to physically stop him.

19 MR. WOODBECK: That is the type of law  
20 we need.

21 MR. POLLOCK: Well, then, if we haven't  
22 got that law now, then that is not included in lawful  
23 picketting, is it?

24 MR. WOODBECK: You'd be correct there.

25 MR. POLLOCK: So that it is not the type  
26 of picketting, / prevention if access is not included  
27 in the term "lawful picketting"?

28 MR. WOODBECK: I would imagine that is

29 ~~correct~~.

30







1 MR. POLLOCK: So that what you want to do,  
2 you want to be able to close up the plant, you want to  
3 be able to by force, and I don't mean this by beating  
4 people up, but I mean by actually blocking their entrance  
5 and having them pushed behind the picket by you and they  
6 get into an altercation and there is violence and all  
7 this kind of thing?

8 MR. WOODBECK: No, that is not what we want.

9 MR. POLLOCK: You don't want that, but  
10 you don't want them not to cross?

11 MR. WOODBECK: We don't want them to in  
12 stealing our jobs while we are on a legal strike. Now  
13 anybody else going across that line that are not stealing  
14 our jobs we will let them pass.

15 MR. POLLOCK: Yes, I will agree with you  
16 there. But people are going in and you feel that  
17 you ought to be permitted to stop them.

18 MR. WOODBECK: That is right.

19 MR. POLLOCK: What about your own members,  
20 what about the members of the original bargaining unit.  
21 If they had a change of heart and they decided that  
22 their conditions aren't so bad and they have economic  
23 reasons to go back to work, would you let them go back  
24 to work to their own jobs. That is, not stealing some-  
25 body else's jobs, they are assuming their own jobs?

26 MR. WOODBECK: This type of system is  
27 the majority when you are voting something, the  
28 person who gets the most votes goes in and that is who  
29 represents you in your riding. If the majority of/people  
30 vote to go on legal strike, then all the members of that





1 bargaining unit should respect that picket line and  
2 the picket should have the right to prevent them from  
3 going into work. The majority should rule.

4 MR. POLLOCK: How long does that majority  
5 mandate continue?

6 MR. WOODBECK: Generally, when there is a  
7 strike on, there are meetings held and <sup>if</sup> people think they  
8 should have another vote then another vote is held and  
9 they vote to return to work, and that should change the  
10 conditions and the vote could put them back to work.

11 MR. POLLOCK: But, it is not a question of  
12 stealing jobs anymore, it is a question that the majority  
13 governs.

14 MR. WOODBECK: That is right.

15 MR. POLLOCK: They are two different  
16 things. The person coming in from outside is a job  
17 stealer and the person who is a member of the union  
18 is all right. What happens if you have a shop that is  
19 organized on the basis of the Rand formula, and the  
20 vote is taken by members of the union to strike and  
21 that the members of the union compose less than a majority  
22 of the bargaining unit. What happens in those circum-  
23 stances?

24 MR. WOODBECK: I have never been faced  
25 with a situation like that and I wouldn't want to  
26 protect the incumbent if the union is a certified bargain-  
27 ing unit or bargaining agent. In this type of situation,  
28 I would say that the members that belong to the union  
29 have the sole right under our system to say it should  
30 take place as a result of this.





1 MR. POLLOCK: And not the majority of the  
2 people that are going to be affected by this course of  
3 action?

4 MR. WOODBECK: There have been members  
5 of the bargaining unit and who are members of the union.

6 MR. POLLOCK: Who are members of the union?

7 MR. WOODBECK: Yes.

8 MR. POLLOCK: So, in this type of  
9 hypothetical situation where you have a Rand formula  
10 shop and you have 100 employees in the union, and you  
11 have 25 members in the union and you have 75 others who  
12 are contributing towards the dues. The fairness of  
13 whether a strike would go on would be carried by a  
14 majority of that 25?

15 MR. WOODBECK: Under those circumstances,  
16 yes, because the other 75 would reap the benefits if  
17 the union was prepared to improve working conditions.

18 MR. POLLOCK: But they might also have  
19 the disadvantage of losing a lot on the strike. They  
20 are paying the dues and they are paying for that service.  
21 They are paying for the benefit that the union is giving  
22 them. That, I take it, is the essence of the Rand  
23 formula shop?

24 MR. WOODBECK: Taking a look at it from  
25 my own particular situation, we don't even have the  
26 benefit of the Rand formula.

27 MR. POLLOCK: What have you got?

28 MR. WOODBECK: We have to sign them up  
29 as they come in. We have a pretty tough row.

30 MR. POLLOCK: How long have <sup>you</sup> been certified







1 with C.G.E.?

2 MR. WOODBECK: Since 1946.

3 MR. POLLOCK: And you have no union  
4 security clause?

5 MR. WOODBECK: No. There isn't a C.G.E.  
6 shop in the United States or Canada with a Union security  
7 clause. We started to apply for 21 days and still didn't  
8 get it. That is a matter again of American domination on  
9 the plants in Canada, which we, in the next few years,  
10 are going to try and change.

11 MR. POLLOCK: One more question. I asked  
12 Mr. Rouse this. In your brief you suggest that you  
13 thought that the injunction was limited or was to be  
14 interpreted in limiting the picketting to the entrances  
15 and exists of the gateways to the plant and that it  
16 didn't cover the places in between.

17 MR. WOODBECK: To my knowledge it was  
18 spelled out as to where the pickets were to be.

19 MR. POLLOCK: You didn't get any advice  
20 of this before the strike?

21 MR. WOODBECK: Not with the lawyer. We  
22 were in touch with/ <sup>the</sup> national leaders of our Union and  
23 probably Your Honour is aware of this and our National  
24 President and National Secretary could see that we  
25 were not basically in violation, that we were demonstra-  
26 ting and not at the entrances because of the way, our  
27 understanding of the wording in it was that you were  
28 allowed four people at one entrance and two at the other  
29 and two at the other walk-in entrance,  
30 walk-in entrance/and four at the other leadway, making a  
total of twelve, and at no time could we have twelve





1 people at one place, so, therefore, the picketting was  
2 limited to four, two, two and four and it was not in  
3 between those areas, it was at those designated areas.  
4 And if we stayed in between those areas, we would be  
5 all right.

6 MR. POLLOCK: Well, that was your inter-  
7 pretation of it?

8 MR. WOODBECK: That is right.

9 MR. POLLOCK: And if you had gone/ <sup>to see</sup> a lawyer  
10 he probably would have given you another interpretation?  
11 If we had given you an interpretation and set your  
12 contact, it would probably wind you up in contempt  
13 of that injunction, would you have still embarked on the  
14 same course of conduct?

15 MR. WOODBECK: Well, something had to be  
16 done, we would have had to get this injunction changed.

17 MR. POLLOCK: All right, thank you.

18 THE COMMISSIONER: I have only one question  
19 and it has to do with words. You say here, and it is  
20 related even to the interpretation of the injunction:

21 "At the outset we would like to state  
22 categorically that strikes are, indeed, a  
23 necessary and desirable feature."

24 You don't believe any such thing. What you mean to say  
25 is that the right to strike is a desirable feature.

26 MR. WOODBECK: That was our intention, yes.

27 THE COMMISSIONER: Yes, of course, and  
28 that is the way we get mixed up with words, you see, and  
29 even you, yourself.....

30 MR. WOODBECK: We don't like strikes, no





1 sir.

2 THE COMMISSIONER: You would rather err  
3 in the use of words to express your ideas. So we can't  
4 lay it all at the door of the law.

5 MR. WOODBECK: There is only one question  
6 I wanted answered. Are we right in assuming that the  
7 use of injunctions, as they are known, is to have the  
8 status quo remain?

9 THE COMMISSIONER: That depends on the  
10 circumstances. In some cases, yes. In strikes, injunct-  
11 ions have been given for the last four hundred years,  
12 so that there is nothing new. It just happens that they  
13 may be new here, new to the group of workers here. But  
14 they went through the United States in history that has been  
15 forgotten. In the early days, the whole conditions on  
16 both sides were very crude and that came to strike  
17 in Chicago in 1894, non-strikers were shot to death.  
18 Well, we don't contemplate that sort of thing today,  
19 you see.

20 The Hearing will be adjourned until two  
21 o'clock.

22 ---Luncheon adjournment.  
23  
24  
25  
26  
27  
28  
29  
30







1 ---On resuming at 2:00 P.M.

2  
3 MR. POLLOCK: Mr. Crossman, I understand  
4 you have a submission that you would like to make to  
5 this Commission on your own behalf and, as indicated to  
6 you, we have just received it and, perhaps, you might  
7 just proceed to read it, if you prefer.

8 (Brief of Mr. Crossman is read into the record)

9 "I am writing to you requesting that I be  
10 allowed to present the following brief to  
11 the Royal Commission when the hearing is  
12 held in Peterborough.

13 "Brief to Royal Commission"

14 I was discharged from the Peterborough  
15 Utilities Commission on May 7th, 1962.  
16 Although everyone involved was fully aware  
17 that I had been wrongfully dismissed, my  
18 union did not process my grievance to any  
19 ultimate determination but agreed with  
20 management's position. I therefore under-  
21 took court action and finally proved by  
22 a decision of the Ontario Court of Appeals  
23 that I had been wrongfully dismissed.

24 This decision was made in July 1966  
25 by Justices Laskin and Wells, and is  
26 reported in "The Ontario Reports 1966,  
27 Volume 2 starting at Page 712". My lawyer  
28 at the time advised me that when I proved  
29 my case, it would be up to the Union to  
30 have me reinstated. However, neither the





1 Union or the Utilities Commission has re-  
2 instated me as of this date even though  
3 the decision was that the Union Agreement  
4 had been violated by the Peterborough  
5 Utilities Commission.

6 The concluding part of the decision  
7 was as follows:

8 'The collective agreement referred to  
9 above having been produced, the Court is  
10 now in a position to give judgment in the  
11 light thereof. Under ss 4(2) and 14(7),  
12 provision is made for grieving against an  
13 unjust discharge as a limitation on the  
14 Commission's power of dismissal. Accord-  
15 ingly, the appeal will be allowed, the  
16 judgment below set aside and in its  
17 place an order will go for judgment for  
18 the plaintiff for damages for wrongful  
19 dismissal in an amount equal to six months'  
20 earnings. The plaintiff is entitled to  
21 costs here and below. Appeal allowed;  
22 judgment for the plaintiff.'

23 I am now in the process of finding  
24 out what further action I may be able to  
25 take against the Union officials for fail-  
26 ing to give me the representation I was  
27 entitled to, under the Union Agreement.  
28 I had asked both the Utilities Commission  
29 and the Union to see that I was reinstated  
30 after the court ruling but I was not given





1 my job back.

2 I believe there should be legislation  
3 in this Province which would clearly  
4 establish that any person who feels he  
5 has been wrongfully discharged would have  
6 the right to a hearing by an arbitration  
7 board. I believe this legislation should  
8 be provided for all individuals, whether  
9 they are represented by a Union or not.

10 I further believe such a board should  
11 be able to have a hearing and make their  
12 decision within a month's time. In my  
13 case I was involved in court proceedings  
14 over a period of four and one half years  
15 and as far as I am concerned the matter  
16 is not settled yet.

17 Such an arbitration board as I have  
18 proposed would, in my opinion have the  
19 power to order reinstatement after a  
20 wrongful dismissal with payment for all  
21 money owing to the employee.

22 All of which is respectfully sub-  
23 mitted.

24 Mr. Arthur Francis Crossman."

25 Now, Honourable Sir, after the appeal was  
26 announced, the Utilities Commission engaged a fourth  
27 lawyer by the name of Charles Bacon of Toronto to take  
28 me to the Supreme Court of Canada, so apparently he  
29 didn't have a case.

30 THE COMMISSIONER: What is the present







1 situation. Did they make application to the Supreme  
2 Court?

3 MR. CROSSMAN: No, they didn't, apparently  
4 they never had a case.

5 THE COMMISSIONER: What reason did your  
6 Union give for not supporting you?

7 MR. CROSSMAN: Well, they said that  
8 management was within their rights at the time of my  
9 discharge.

10 MR. POLLOCK: Would you have been prepared  
11 to proceed with the grievance procedure and approve  
12 the costs occasioned thereby if the Union had said  
13 to you, "Well, we are not going to press this grievance  
14 because we think it is frivolous, you can do it if you  
15 so wish".

16 MR. CROSSMAN: Yes, I would.

17 MR. POLLOCK: Would you have gone through  
18 with the grievance if it had been available to you?

19 MR. CROSSMAN: Yes.

20 MR. POLLOCK: And you would have paid  
21 any costs that had been incurred?

22 MR. CROSSMAN: Yes, I would.

23 MR. POLLOCK: I have no further questions.  
24 Thank you, Mr. Crossman.

25 THE COMMISSIONER: At the present moment,  
26 we are not in a position to say anything, but we  
27 will take your matter and give it careful consideration.  
28 Are you working now?

29 MR. CROSSMAN: Yes, I am working with the  
30 Department of Transport, sir. I am laid off at the





1 the present time. I am laid off before the fiscal  
2 year. I was actually fired for digging an unsafe hole.  
3 I was down nine feet deep and one of the  
4 press reporters found me in this hole and I was fired  
5 the following day. I was digging the hole alone and, as  
6 the General Manager said under oath, that we don't  
7 stock shoring for the protection of the men that  
8 are in these holes. There should shoring before,  
9 etcetra.

10 THE COMMISSIONER: Well, we will give that  
11 letter of yours consideration.

12 MR. CROSSMAN: Thank you very much, sir.

The next person to speak is

13 MR. POLLOCK: / Mr. Eugene Kurz.

14 THE COMMISSIONER: Mr. Kurz, I have read  
15 this submission of yours and, personally, I find it  
16 extremely interesting, but I think you will agree with  
17 me that it is more a philosophical statement of what  
18 you consider first principles of a social organiza-  
19 tion. I haven't any objection to dealing with three  
20 or four of your basic ideas and elaborating on them  
21 to a reasonable extent, but I want to stress this,  
22 that what we are concerned with here in this Inquiry  
23 are dealings with practical matters and what I may say  
24 we are looking for, and I must say that our vision  
25 hasn't been too well satisfied, our first idea is to  
26 enable us to take/modest steps toward the end which you set  
27 forth in your memorandum.

28 MR. KURZ: You said modest steps?

29 THE COMMISSIONER: Yes, modest steps  
30 because I think the stages of our organization, if we





1 take too long steps, we have to retrace and draw back,  
2 so that society has advanced by slow process, and  
3 you talk about justice, which is a very proper con-  
4 ception, but remember the difficulty the Greeks had  
5 in finding any clear, precise definition of justice.

6 MR. KURZ: They are two thousand years  
7 older.

8 THE COMMISSIONER: Do you think we are  
9 any better off now?

10 MR. KURZ: We should be.

11 THE COMMISSIONER: We should be, but are  
12 we?

13 MR. KURZ: Unfortunately not, but it is  
14 a matter that I want to enquire about.

15 THE COMMISSIONER: Well, why are we not?

16 MR. KURZ: Well, this is a matter that  
17 maybe we can discuss here and that is why I wanted to  
18 approach this strike problem.

19 This is a philosophical business.

20 THE COMMISSIONER: Yes, I know, but I  
21 think you will agree with me that the reason we are  
22 not ahead is that it is almost an indefinable concept.  
23 There are so many points of view of justice, there  
24 are so many elements in justice, that nobody can  
25 give a definition that will meet all cases. We want  
26 to be fair. What we mean by being fair is, we have  
27 one person owning property and the other person  
28 without property and he wants to take some of this.  
29 Now, from one point of view, it is fair that he should  
30 have it. From another point of view, it is fair that







1 he shouldn't have it.

2 MR. KURZ: I am sorry, I can't agree  
3 with you on such a view.

4 THE COMMISSIONER: Well, I would  
5 like to have from you something concrete, some  
6 specific suggestion that we can make at this juncture  
7 which will enable us to move in a direction which we  
8 might all approve. But to have some realistic apprecia-  
9 tion of where it is going and, finally, end up at  
10 something that we can take advantage of and bring  
11 into the apparatus of liberty.

12 MR. KRUIZ: I agree and I understand  
13 that.

14 THE COMMISSIONER: Now, what have you  
15 to suggest?

16 MR. KRUIZ: May I ask the privilege  
17 of sitting down.

18 THE COMMISSIONER: Yes, you may, but  
19 I don't want to indulge in a very broad philosophical  
20 discussion because you know we can carry these on for  
21 hours and hours.

22 MR. KRUIZ: I will stay within the  
23 terms of reference, and I think it may be a great  
24 advantage that I read this brief and then, if the  
25 Honourable sir, is to question me the way that you  
26 did.

27 THE COMMISSIONER: I won't question  
28 you on that brief because that takes me into a Utopia  
29 that we don't yet enjoy. I want something that you  
30 can handle, something that you can feel and work with





1 and put into effect.

2 MR. KRUZ: May I say something to  
3 that, Honourable sir. These questions this morning  
4 that were discussed back and forth are of secondary  
5 importance and, consequently, are practical questions.  
6 But, in my approach, I believe we should ask questions  
7 as to why or what the causes are that we have such  
8 strike psychosis. It is, for example, let us take  
9 an example of the last five decades, especially the  
10 last decade where quality has been very  
11 widely influenced by the statements of certain members  
12 of society, political society, that communism is the  
13 evil of everything. But no one asks actually what  
14 the cause and what is communism, how it was born in  
15 Russia for example, and how it was born in China.  
16 Nobody asks, and I believe that a court who is a body  
17 of investigating the labour disputes which sat in  
18 direct relation to the social relation of man to man,  
19 I believe that they have to go the first principal  
20 questions, otherwise I won't find an answer. That is  
21 impossible. Because the person set up in our apparatus  
22 of society structure, law as well as anything else,  
23 is more or less of a stalemate.

24 THE COMMISSIONER: Of course, that is  
25 true. But, you know, you have many people all talking  
26 at the same and all talking in different directions  
27 and all being perfectly sure that he has the right  
28 idea.

I agree.

29 MR. KRUZ: Yes sir / But, in searching  
30 for the proper right or wrong, I believe it must be





1 based on a majority rule, like anything else. If it  
2 is for the good of society, then I believe you must  
3 bow to the unwritten laws of society.

4 THE COMMISSIONER: What do you mean  
5 by that?

6 MR. KRUIZ: I mean that he has to bow  
7 to the laws, and he has to follow his unspoken and  
8 and unwritten laws.

9 THE COMMISSIONER: Well, of course,  
10 that represents the experience of the past. They are  
11 going slowly so that they can maintain their organiza-  
12 tion and community relation and avoid all of those  
13 pitfalls in which they may lose themselves, or into  
14 which they may lose themselves or to come in contact  
15 with forces which may destroy them. It is part of  
16 the process of survival.

17 MR. KRUIZ: Yes, I agree, but society  
18 consists of two factions and this is the have class  
19 and the have-not class. The have class is the command-  
20 ing power of our times.

21 THE COMMISSIONER: Well, let us take  
22 two subjects and see what we can make of them because  
23 they are very important as you mentioned. First, is  
24 the conception of justice. What do you say about that  
25 in a short statement?

26 MR. KRUIZ: Well I believe justice is  
27 that justice can be named as such when it is directed  
28 to what everyone equally, regardless of his financial  
29 possessions <sup>or</sup> his material possessions.

30 THE COMMISSIONER: Well, first, you







1 have to determine who everybody is. You see, we have  
2 a biological range from an idiot to a genius. They all  
3 go up that line. There is varying ability and  
4 varying gifts, great gifts and some weak gifts, good  
5 bodies and weak bodies, moral conceptions and some/ no  
6 more moral conceptions and others. Whom are you  
7 talking about? Would you say there is an equality or  
8 are you speaking about material equality?

9 MR. KRUZ: Material equality, of  
10 course, too, because strikes I believe exist on the  
11 material equality.

12 THE COMMISSIONER: Well, are you  
13 willing that the return on the total productivity  
14 or production of a society should be given to all  
15 persons equally, regardless of their contribution  
16 in brains and ideas and work which brought about  
17 this production?

18 MR. KURZ: I have set it out in the  
19 brief, Your Honour.

20 THE COMMISSIONER: What do you  
21 believe, do you accept that?

22 MR. KURZ: Absolutely not, such a  
23 society is a Utopia.

24 THE COMMISSIONER: But, what do you  
25 mean by a material equalization?

26 MR. KURZ: I don't think I mentioned  
27 equalization in relation to the distribution of the  
28 pressage of labour but, of course, it is more or less  
29 towards that, but let me state it so here in order  
30 to clarify it a little better. Equalization can never





1 exist because we are, even our moral qualities and our  
2 apparent intelligence capacities, we are never equal,  
3 one person to another and, consequently, there cannot  
4 be an equality in this regard, but there can be an  
5 approach to equality of the material distribution of  
6 the pressage of labour according to its merit and not  
7 to the amount of money or positions that he has,  
8 and this is why the difference, of course. It is not  
9 only on the basis of morality, which is very essential,  
10 for example, Your Honour, with regard to Plato.

11 THE COMMISSIONER: Would you call  
12 Plato and Socrates a wonderful age?

13 MR. KURZ: No.

14 THE COMMISSIONER: Why wouldn't you?

15 MR. KURZ: Because in that age, I  
16 think we had slaves.

17 THE COMMISSIONER: Of course they  
18 had slaves.

19 MR. KURZ: They had slaves and freemen.

20 THE COMMISSIONER: In the presence of  
21 slaves and others you have these magnificent  
22 thoughts that have come down to us even at the present  
23 time, those of Plato and Socrates.

24 MR. KURZ: Well, Your Honour, I regard  
25 the republic of Platos was not as a Utopia, but  
26 something projected to us how it should be.

27 THE COMMISSIONER: Putting high in-  
28 telligence in command of everything?

29 MR. KURZ: Not high intelligence, but  
30 justice. High intelligence may not be just.





1 THE COMMISSIONER: Whose going to  
2 determine what justice is if you can't define it?

3 MR. KURZ: Justice is definable, of  
4 course.

5 THE COMMISSIONER: I thought you said  
6 a moment ago it was not definable.

7 MR. KURZ: Maybe I didn't form the  
8 proper words at the present time, but justice is that  
9 there is the greatest equality with mankind given in  
10 justice, as well as material worth or material belong-  
11 ings. The greatest equality, but still based on the  
12 basis of one's own merit and not on the merit of  
13 patronage of material possessions, such as money or  
14 land, or whatever it might be or on a basis of blood  
15 relationship.

16 THE COMMISSIONER: Who do you think  
17 the scales do weigh the contribution that any individual  
18 makes to this or that social instrument or social con-  
19 dition?

20 MR. KURZ: It is most unfortunate, I  
21 believe, that people are inclined in reality and no  
22 one can exist without the help of the other or without  
23 the help of society.

24 THE COMMISSIONER: He might exist,  
25 but he won't exist as he is today.

26 MR. KURZ: But, Your Honour, the  
27 set-up we have in society today are, for example,  
28 the basis of income between the lowest paid worker  
29 and the highest paid worker. How can there be a  
30 morality build-up behind such as that?







1 THE COMMISSIONER: Then you would put  
2 the distribution of money as essential to the highest  
3 form of morality?

4 MR. KURZ: Well, the distribution of  
5 the highest form of morality is, of course, social  
6 harmony.

7 THE COMMISSIONER: Well, we read in  
8 the paper about how some of these people with a million  
9 times the salary of the more modest man that he jumps  
10 out of a top window to end his life. Why does he do  
11 that?

12 MR. KURZ: Well, it depends on the  
13 reason it was that he jumped out.

14  
15 THE COMMISSIONER: All I am suggesting  
16 is that your equation of billions / happiness  
17 doesn't pan out that way.

18 MR. KURZ: Why not?

19 THE COMMISSIONER: Because the answer  
20 is that materiality is not the key to happiness.

21 MR. KURZ: I agree with you.

22 THE COMMISSIONER: Well, what is the  
23 difference if a man has it and can't make use of it?  
24 He can't eat it, he can't wear it and he can't sleep it.

25 MR. KURZ: Your Honour, I stated before  
26 that the highest aspiration of man is social harmony  
27 and peace. But, of course, to achieve that, there  
28 must be a better distribution of the prestige of  
29 labour because it is labour that produces the money  
30 and it is not in the first grade the employer who





1 produces the money, it is the wrong attitude to believe  
2 that.

3 THE COMMISSIONER: Now, just a moment.  
4 Who had made the greatest advances towards civilization  
5 and the condition of harmony that you are advocating.  
6 What type of person and what talent and what genius?

7 MR. KURZ: I believe that all these men  
8 have come out of the pool of human resources.

9 THE COMMISSIONER: I am not asking  
10 that. Who were they, and what was their function in  
11 life?

12 MR. KURZ: Well now, I think there  
13 have been great men in all categories, not only of  
14 the have classes but the have-not classes and that  
15 means Marx has definitely made a great contribution  
16 towards the social betterment of the masses, as such.  
17 Then, for example, many men of the have class have  
18 made great contributions, there is no doubt, and I do  
19 not attack them for this reason. I do attack them  
20 for the unreality which some of them exercise with  
21 the labour force. Not as such, they are part of the  
22 social body just as we are and I recognize that fully.  
23 But, of course, we have to draw the line. Personal  
24 freedom, which is so much invoked over here and I  
25 would say all over the world, of course, cannot be  
26 based as one of the stands that democracy is that  
27 anybody can do what he wants because he is stronger.

28 THE COMMISSIONER: I don't think  
29 there is any doubt about that. But, again, it is  
30 easy to see that you have thought these ideas to some





1 depth, but, after all, we have to deal with the  
2 realities of living. We know that men have passions,  
3 we know that they have appetites and we know that  
4 they have vanities. They want to spread themselves  
5 to attract attention, and these strange attributes  
6 create these pressures that you feel are destructive  
7 of the social harmony which can be conceived as an idea  
8 of state. But, you see, we are clear in this Inquiry  
9 that we are reduced to much more mundane thinking  
10 and acting. In the background of all of that and  
11 assuming everything you say is of interest to you and  
12 can be said from one point of view. What you suggest  
13 is a practical matter of labour relations in this  
14 province as a means of improving or, rather, of proving  
15 to the greater satisfaction of the greater number of  
16 people in the province. That is our job.

17 MR. KURZ: May I read that one para-  
18 graph on page 6:

19 "It is not that the law, as such, was  
20 the only primary factor for the exist-  
21 ing imbalance of power and, in con-  
22 sequence, the labour unrest. The law  
23 can be adjusted. At a certain stage  
24 of the psycho-social process it might  
25 have functioned satisfactorily. It  
26 is, rather, the reluctance of the  
27 judiciary body to function not only  
28 as an administrative and executive  
29 body, but to function also as an  
30 advisory body to the government for







1 the necessity of adjustment if any  
2 laws become obsolete through the  
3 psycho-social process and is no longer  
4 serving to achieve social harmony. A  
5 good remedy, and this is the case, is  
6 the most necessary in this restricted  
7 case that I have to point out, a good  
8 remedy in the case of such functional  
9 failure would be that the judiciary  
10 body be made responsible for any  
11 serious discord in society life. Then,  
12 I believe, this would change to the  
13 better at a faster pace".

14 THE COMMISSIONER: Then you are not  
15 as good a democrat as we understand that word to mean,  
16 because I thought that democracy wanted to express  
17 itself in a political institution, parliament. If  
18 they want to choose the laws and if they want to  
19 determine new modes of regulation of human conduct.

20 MR. KURZ: Does that mean that Your  
21 Honour means it is not a judiciary body that should  
22 change the law, but a legislative body that should  
23 change it?

24 THE COMMISSIONER: Well, I think that  
25 has been the acceptance of a great many centuries.

26 MR. KRUIZ: I can agree with that, of  
27 course, but since a judiciary body is the expert body  
28 and the legislative body is not an absolute expert body,  
29 consequently, it is rather the judiciary body  
30 would have better knowledge and would see better the





1 necessity of changing laws and could advise.

2 THE COMMISSIONER: That is a question  
3 that cannot be answered with any competence between  
4 members of the judiciary, of course. They have  
5 sensibilities that enable them to see matters from  
6 many, many points of view where other men are more or  
7 less rigid in their ideas and their outlook and the  
8 point of view which they take, and the perspective with  
9 which they see these ideas. All men are so different  
10 that you can't classify any group of that sort. That  
11 is one of the virtues of parliament, that you have the  
12 interests of the various points speaking from different  
13 parts of the house and you can see the context that  
14 must be resolved into some sort of concrete action in  
15 order to move at all. I think that the judicial work,  
16 of course, <sup>is</sup> sufficiently difficult not to impose upon  
17 their respectability for wisdom and I suppose that  
18 word "responsibility", as I take it from your article,  
19 would mean that they would be put to death if they  
20 didn't bring about the harmonious society.

21 MR. KURZ: What I say is, if you want  
22 to build up a proper society structure with peace and  
23 harmony within it, then, of course, I have to step  
24 in at this point which I already mentioned, it would  
25 be necessary to have an introduction of punishment  
26 on a decending scale. The person with high education  
27 must be well punished. Let us say that the person  
28 with high education and in a higher position that  
29 means more responsibility or benefit, would have  
30 to be charged and punished more for transgressions





1 against society and harmony than any other person who  
2 has not this education and not the responsibility.  
3 Otherwise, we will never be able to build up a proper  
4 living society, a harmonious living society.

5 THE COMMISSIONER: Now, really, that  
6 is based on the assumption that education makes people  
7 broadminded, generous, sympathetic, sensible, but it  
8 doesn't necessarily do that at all. You can find the  
9 extremes of unreasonable and selfishness and obstinacy  
10 and prejudice and people who are, in the ordinary  
11 sense, highly educated. Which simply means that their  
12 minds are stuffed with the whole field of ideas which  
13 they are generally unable to put into action.

14 MR. KURZ: Yes, Your Honour, and I  
15 want to answer to this statement, if I may. On page  
16 7, the main paragraph:

17 "However, we may never understand this  
18 matter  
19 complex/properly without knowing and  
20 considering the start of the body  
21 social and its structure. How, for  
22 example, can we recognize the workings  
23 of these psychological forces without  
24 considering that the body social con-  
25 sists of an active and inactive part?  
26 Or that people are born with good and  
27 bad moral qualities, some with more  
28 bad than good and some with more good  
29 than bad, or that a minority of people  
30 are born extremely selfish or extremely  
anti-social. Or that the commanding







1 portion of the have class is of the  
2 active portion and often also of the  
3 selfish portion, or that the qualities  
4 with which man is born and in which  
5 Aristotle speaks as of vice and  
6 virtue are all related to us by birth.  
7 And that, therefore, the moral nature  
8 of man is subject to betterment by  
9 proper education. And that the action  
10 of the selfish element must be  
11 controlled by adequate legislation  
12 in order that they do not impede the  
13 rights and liberties of others. And  
14 that active and selfish element by  
15 virtue of the composition of the  
16 legislative element does not need as  
17 much protection from the law as does  
18 the other portion, the large have-  
19 not class. Just remember the  
20 Gracchian Tragedy of Rome."

21 THE COMMISSIONER: Of course, the  
22 Graccia are fighting against the evils of tyranny  
23 and desperatism.

24 MR. KURZ: Well, Tibirus was the  
25 strongest supporter of reform and at that  
26 time, the slave was entering into the structure of  
27 society life which hadn't been in existence before.

28 THE COMMISSIONER: All that means is  
29 that if given plenty of rope, all men, except a few  
30 saints may become arrogant if the length of the rope





1 extends.

2 MR. KRUZ: That is right, too arrogant.  
3 But you cannot, because they are the commanding force  
4 and the law must protect the weak. The legislative  
5 body should actually be put through legislation protect-  
6 ing the weak, since the legislation is consisting of  
7 members of the have class and, consequently, it cannot  
8 be a judicial body as an expert body which can really  
9 advise the government expertly and impartially on the  
10 necessity of abolishing some laws and constructing new  
11 ones.

12 THE COMMISSIONER: Well, all I can  
13 do, and I am sorry, because remembering some of the  
14 things that took place in Europe in the Sixteenth  
15 Century and I recall one in which the religious  
16 question was argued for seventeen days. I am sorry  
17 that we haven't got more time than seventeen minutes.  
18 So, it is not possible to engage this hearing in two  
19 months of this philosophical question. All I can  
20 say is this, that I have always been rather sympathetic  
21 to becoming acquainted, at least, with the speculations  
22 of the past and which you have written, will not be  
23 repellant to me or to anyone associated with this  
24 Commission. But, after all, it can simply furnish a  
25 sort of influential general idea and we must  
26 come to something, as I intimated before, something  
27 more concrete and materialized.

28 MR. KURZ: Yes, Your Honour. Do you  
29 realize, Your Honour, that, for example, a new machine  
30 is built after first having a blueprint.





1 THE COMMISSIONER: Most of them are,  
2 yes.

3 MR. KURZ: After that, the building  
4 is going on.

5 THE COMMISSIONER: But, until they  
6 find out that the blueprint has some weaknesses in it  
7 and they must change it.

8 MR. KURZ: And they must change it,  
9 yes, and we have that in our daily experience. And  
10 the same thing applies to society structure and some  
11 good has to come out of it. I have written a new  
12 society that is very controversial, but I think it  
13 is clear enough that on this basis it is to function  
14 as a projection for the step by step introduction of  
15 it by the responsible society. I know it cannot be  
16 done at once. Then it would be a revolution. But I  
17 do not advocate revolutionary measures. I do not  
18 accept the evolutionary measures of revolutionary  
19 measures, but I believe that every agency of society  
20 structure, if functioned properly, that we can develop  
21 at an accelerated pace towards a better human relation-  
22 ship.

23 THE COMMISSIONER: Well, at the  
24 present moment, humanity seems to be accelerating  
25 its rate of advance toward the everlasting pit.  
26 We may land there before we land in Utopia.

27 MR. KURZ: It is not our fault if that  
28 happens, it is the fault of the upper echelon. It is  
29 the fault of intelligence because they are the ones  
30 who are responsible to a higher degree than the working







1 masses are. The working masses only move if they are  
2 severely stung. They will not do otherwise, they are  
3 too lazy and too disinterested and too much interested  
4 in their own affairs and, as it has been mentioned here  
5 this morning in the question period, if a person wants  
6 to go through a picket line in order to take  
7 work and to protest against such an unsocial condition,  
8 such person has to be right, of course, but I cannot  
9 agree that this should be justified by a law and these  
10 laws which we have are actually dictates of a few  
11 decades ago and, consequently, the social process  
12 and then the psychological forces are completely  
13 ignored in the law structure and in the law giving  
14 advice. So, you see, I believe, still, that even an  
15 investigating body does not go into these primary  
16 questions and he will not find the answer. He will  
17 only find back alleys to the present deteriorated  
18 situation. A back alley where things can slip out  
19 again, and something else build up again. But this  
20 is not the proper thing we should do. I think we  
21 should start to legislate in a constructive manner  
22 and not in a negative manner.

23 THE COMMISSIONER: Have you ever had  
24 any responsibility for legislating?

25 MR. KURZ: Insofar as my election  
26 rights go. Of course, I have never participated in  
27 a political party to the extent that I was a candidate.

28 THE COMMISSIONER: Were you ever in  
29 a position where you had to make a decision that would  
30 affect a great many other people?





1 MR. KURZ: I think I have made decisions  
2 of my philosophy, and this is only a projection of it  
3 here.

4 THE COMMISSIONER: I don't mean that.

5 MR. KURZ: But, of course, they have  
6 no responsibilities insofar as they are not implemented  
7 yet.

8 THE COMMISSIONER: Well, I think the  
9 cure for much of this thinking is the assumption of  
10 responsibility in office, then you can see how  
11 many interests you have to satisfy or dissatisfy.

12 MR. KURZ: I agree to this point,  
13 Your Honour, to a certain extent, because a judicial  
14 body is not the only agency of the government or the  
15 essential  
16 only/functioning agency of the government. There is  
17 the church which was, throughout the ages, the moral  
18 leader and if they had more courage and a little more  
19 insight and if they would contemplate a little more  
20 about the evils and the woes of people and the strikes  
21 which I have quoted as going on, and building  
22 up more if the clergy would do that and  
23 function properly, I believe they could work together  
24 with the judicial body and with the intelligence group  
25 who is absolutely in the position to advise the  
26 government better.

27 THE COMMISSIONER: Bernard Shaw wrote  
28 a book a few years ago which advocated and I don't  
29 know if it was expressive of his views or not, I  
30 think the title was "A Woman's Socialism", or something  
like that, in which he, in effect, suggested that





1 everybody in this distribution would receive the same  
2 amounts in proved terms of money. You would agree  
3 that that would be rather nonsensical.

4 MR. KURZ: Well, I stated before that  
5 I do not believe, but I believe it to be a Utopia,  
6 because a society cannot exist under such a party.

7 THE COMMISSIONER: I mentioned that  
8 only to show that Bernard Shaw was interested in  
9 local government and the social and economic futures  
10 of the community. And he did belong to one of the  
11 councils in the neighbourhood of London. I was going  
12 to ask you if you have ever attempted to attain  
13 election as an alderman of the city?

14 MR. KURZ: No, I have absolutely no  
15 aspirations to run for political office.

16 THE COMMISSIONER: It isn't a question  
17 of aspiration, but it is of responsibility. You have  
18 thought these questions and you have achieved a certain  
19 education and a greater obligation now is placed upon  
20 you to contribute to that stage which has, as its end  
21 result, the attainment of harmony. Why don't you give  
22 the public the benefit of your views and action?

23 MR. KURZ: I thank you, but I would  
24 still like to state that you, personally, as a man  
25 of high repute and impartiality, that you, personally,  
26 contribute much better to what is suggested,  
27 because I believe that within the framework of a  
28 municipal body, I would lose myself in arguments, and  
29 I could not project. What we need is to project first  
30 in order to give somebody something to chew on.







1 THE COMMISSIONER: I must say, that  
2 you are perfectly frank, you would lose yourself in  
3 controversy and, therefore, you would be ineffectual  
4 as an administrator. But, the people who take that  
5 responsibility on, really are face to face with con-  
6 tradictory interests that are pushing and pulling  
7 and lumbering against him for this and that and the  
8 other decision. And you ought to sympathize with those  
9 people.

10 MR. KURZ: I do sympathize with them,  
11 but if your participation in a municipal body, it is  
12 for them at the same time a restriction and I could  
13 not work any more <sup>with</sup> /my thinking as I would want to work,  
14 but I believe, for example, that Your Honour, who has  
15 organized an investigating body which would be a higher  
16 level projecting new thoughts for the people, it takes  
17 a few decades anyway until they can be implemented.

18 THE COMMISSIONER: Well, all I am  
19 trying to emphasize is the difficulties that are  
20 present in the government. We have what they call  
21 a free world.

22 MR. KURZ: But this does not mean  
23 we can sit back and wait for things to change by  
24 themselves. It cannot be, because then the selfish  
25 element will over-run everything else.

26 THE COMMISSIONER: But you don't  
27 do it, you know, and you are educated. It was you  
28 who thought these ideas and, yet, you fold your hands  
29 and do nothing.

30 MR. KURZ: I wouldn't say I do nothing.





1 I try, for example, to influence or enthuse, as well  
2 as introduce worthwhile new thoughts and some do  
3 make statements on it and some do recommend me, and  
4 some have not even the courtesy to answer. As you say,  
5 we have different people, consequently, in the  
6 politicians, there are different people and not always  
7 the way they should be, but they are human beings, I  
8 know, but I do not bear a grudge against them. I  
9 believe what we need, of course, is to function as it  
10 is, but what we need is a projection of new ideas in  
11 order that we have a faster outlook on the social  
12 relationship and, of course, within the whole world.

13 THE COMMISSIONER: I entirely agree  
14 with you, and what we are seeking today is just what  
15 you have described, fresh ideas.

16 MR. KURZ: Well, I would even give  
17 you a suggestion, and you may ~~object of course~~, but to  
18 go into this deeper into the study, you might start  
19 to look <sup>at</sup> / it. For example, the market <sup>on</sup> / food prices  
20 and the quarrel which is going on with the unnecessary  
21 cost of labour and things like that and advertising,  
22 of course, is a big item and I agree that this could  
23 be abolished, or a great part anyway. But, on the  
24 other hand, how do you think that food prices could be  
25 diminished or to sink them, let us say, as long as  
26 there is a body of shareholders who is independently  
27 feeding <sup>on</sup> the consumer masses where they pay the high  
28 prices. They dictate the prices.

29 THE COMMISSIONER: Well, I have only  
30 one more question to put to you. I suppose you will





1 agree that there is such a thing as evil in this life?

2 MR. KURZ: Yes, and we should try to  
3 eliminate it.

4 THE COMMISSIONER: How far have you  
5 succeeded?

6 MR. KURZ: Well, really, why would you  
7 put this question to me? I believe we have made a  
8 great stride ahead, and I mention one point that it is  
9 more or less shameful that we have stayed so much  
10 behind in the development of social relationships, in  
11 the development of natural sciences and technology,  
12 but I believe the higher the effort<sup>should</sup>/be, because it  
13 would be a real good goal to go for. It is very easy  
14 to introduce some laws and in a dictatorship like  
15 communism, but to do these, this process in a  
16 democracy I think would take more, and I believe it is  
17 more to fight for.

18 THE COMMISSIONER: Well, as I told you  
19 before, these speculations are very interesting to me,  
20 but I am afraid I would be discharged with wasting  
21 my time if I gave over the hours to that because they  
22 are not close enough to the purpose of this  
23 Commission which is very commonplace and mundane, it  
24 is right on the earth in dealing with human beings  
25 in all their selfishness and all their demands and  
26 desires.

27 MR. KURZ: Well, if I might make  
28 one last statement in connection with yours, Your  
29 Honour. There is a direct relationship between my  
30 points of view and between that that you just mentioned.







1 Mistakes are curses and the labour unrest should be  
2 buried and, of course, it must go to the basics. Now  
3 we can, of course, and it has been done all the time,  
4 to put some substitutes in it and, as I say, you find  
5 it in some back alleys, but this, I believe, is not  
6 the proper way.

7 THE COMMISSIONER: Well, I can only  
8 say, <sup>my</sup>in/weakness, that I can look at things as you do,  
9 so, in that sense, there is harmony between us.

10  
11 ---Whereupon the Hearing was adjourned until  
12 10:00 A.M., April 10th, 1967, at Hamilton, Ontario.  
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BINDING SECT. OCT 20 1967



